



Australian
Competition &
Consumer
Commission



AUSTRALIAN
ENERGY
REGULATOR

ANNUAL REPORT

2014–15

Contact us

If you have any questions or ideas about this report, please contact:

Director, Corporate Communications
Australian Competition and Consumer Commission

23 Marcus Clarke Street
Canberra ACT 2601
Australia

Internet: www.accc.gov.au

Email: publishing.unit@acc.gov.au

Phone: (02) 6243 1111
+61 2 6243 1111
(international)

Fax: (02) 6243 1199
+ 61 2 6243 1199
(international)

Online version

Web address of this report: www.accc.gov.au/annualreports

ISSN 1327-4767

ISBN 978 1 922145 62 8

Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

© Commonwealth of Australia 2014

This work is copyright. In addition to any use permitted under the *Copyright Act 1968*, all material contained within this work is provided under a Creative Commons Attribution 3.0 Australia licence, with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration, diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication.

The details of the relevant licence conditions are available on the Creative Commons website, as is the full legal code for the CC BY 3.0 AU licence.

Requests and inquiries concerning reproduction and rights should be addressed to the Director, Corporate Communications, ACCC, GPO Box 3131, Canberra ACT 2601, or publishing.unit@acc.gov.au.

Important notice

The information in this publication is for general guidance only. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law in any jurisdiction. Because it is intended only as a general guide, it may contain generalisations. You should obtain professional advice if you have any specific concern.

The ACCC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency or completeness of that information.

Parties who wish to re-publish or otherwise use the information in this publication must check this information for currency and accuracy prior to publication. This should be done prior to each publication edition, as ACCC guidance and relevant transitional legislation frequently change. Any queries parties have should be addressed to the Director, Corporate Communications, ACCC, GPO Box 3131, Canberra ACT 2601, or publishing.unit@acc.gov.au.

ACCC 08/15_979

www.accc.gov.au



Australian
Competition &
Consumer
Commission

EXECUTIVE OFFICE

2 October 2015

The Hon. Scott Morrison MP
Treasurer
Parliament House
CANBERRA ACT 2600

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

Dear Treasurer

We are pleased to present to you the Annual Report of the Australian Competition and Consumer Commission (ACCC) and the Australian Energy Regulator (AER) in accordance with section 63 of the *Public Service Act 1999*.

This report covers operations for the year ended 30 June 2015. The ACCC and AER have obligations under section 171 and section 44AAJ of the *Competition and Consumer Act 2010* to provide an annual report to the responsible minister within 60 days of the end of the financial year. Accordingly, we provided a copy of this report to the responsible minister at the time, The Hon. Bruce Billson MP, on 28 August 2015.

We certify that the ACCC and AER have prepared fraud risk assessments and fraud control plans. We have in place appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes that meet the specific needs of the agency and comply with the Commonwealth Fraud Control Guidelines.

Rod Sims
Chairman, ACCC

Paula Conboy
Chair, AER

Contents

Part 1 Year in review	1
Part 2 Overview of the ACCC and AER	11
Part 3 Report on performance	23
Program 1.1 Australian Competition and Consumer Commission	27
Goal 1: Maintain and promote competition and remedy market failure	28
Goal 2: Protect the interests and safety of consumers and support fair trading in markets affecting consumers and small business	57
Goal 3: Promote the economically efficient operation of, use of, and investment in monopoly infrastructure in the long-term interest of end users	123
Program 1.2 Australian Energy Regulator	165
Goal 1: Delivering better network regulation	167
Goal 2: Building consumer confidence in retail energy markets	179
Goal 3: Supporting the efficient operation of energy markets	190
Part 4 Management and accountability	201
Goal 4: Increase our organisational effectiveness through a commitment to our people, planning, systems and stakeholder engagement	202
Part 5 Financial statements	241
Part 6 Appendixes	317

Part 1

Year in review



Introduction

In the year that marked the 40th anniversary of the *Trade Practices Act 1974*, the Australian Competition and Consumer Commission and the Australian Energy Regulator continued to deliver economy-wide outcomes that enhance the welfare of all Australians.

In the first half of 2014, we overhauled our internal corporate governance system, streamlined our organisational structure and reduced our staff numbers, to match available funding. The considerable synergies and organisational efficiencies between the ACCC and AER's competition, consumer and small business, and infrastructure regulation means that in 2014-15 we have been able to continue to meet the high expectations of our stakeholders.

Competition

Competition underpins our market economy and brings innovation, efficiency and dynamic ways to meet consumers' needs, but it needs well-defined boundaries on commercial behaviour. The ACCC has continued to vigorously pursue enforcement activities when market conduct will, or will have the potential to, harm the competitive process. Throughout the year the ACCC achieved some significant outcomes and instituted proceedings in a number of important competition matters, for example:

- The Federal Court ordered \$8.3 million in total penalties against businesses supplying forklift cylinder gas that were engaged in cartel activity.
- We started proceedings against several of the major businesses in the supply chain for electrical cable, alleging cartel and exclusionary conduct.
- We started proceedings alleging bid rigging involving mining exploration licences in the NSW Bylong Valley.
- The ACCC took the CFMEU to court for alleged secondary boycott and undue harassment or coercion at Melbourne construction sites.
- Cabcharge Australia Limited provided a court enforceable undertaking that clears the way for third parties to process Cabcharge cards, a first for the taxi payments industry.

The ACCC reviews mergers and acquisitions to assess whether they will substantially lessen competition. In the past year, we considered close to 320 matters and conducted around 40 public reviews. Our merger analysis covered a diverse range of industries, including pharmaceuticals, travel and building products. As a result, we accepted court enforceable undertakings to resolve competition concerns identified in seven matters.

Another important area of our work involves authorisations and notifications. These processes provide legal protection for anti-competitive conduct when the public benefit outweighs the public detriment. In 2014-15, we issued 33 final authorisation decisions spanning industries such as aviation, agriculture and waste services. We also received more than 750 exclusive dealing notifications.

The ACCC continued to encourage governments planning to privatise significant infrastructure assets to ensure appropriate market structures or regulatory arrangements are in place prior to sale. Australia needs to be careful to ensure that privatisation boosts economic efficiency rather than detracts from it.

The ACCC hosted the 2015 Annual Meeting of the International Competition Network (ICN) in late April. The three-day event was a great success. More than 400 delegates from over 70 countries attended the meeting which had a strong focus on the digital economy. It was an optimal time to host the meeting in our region given the significant developments in competition law and policy within ASEAN.

The ACCC is delivering practical and targeted capacity building to our ASEAN counterparts under a Competition Law Implementation Program. As well as sharing our experience with emerging agencies, we also welcomed the opportunity to sign a cooperation arrangement with the Japan Fair Trade Commission. Our agreement paves the way for increased cooperation and investigative assistance on competition matters affecting Australian and Japanese markets.

Consumer and small business

Research commissioned by the ACCC shows there is an increased understanding, among consumers and small businesses, of the ACCC's work. Our involvement in 44 proceedings under the Australian Consumer Law (ACL) may partly explain this trend. On top of court penalties, we also accepted eight consumer protection-related undertakings and received payment for 16 infringement notices in the past year. Our interventions covered everything from placing a bet, 'discounts' on energy bills and the rights of gamers when buying online.

One high-profile case put the spotlight on how retailers deal with smaller suppliers. Coles Supermarkets settled two cases brought by the ACCC in the Federal Court by admitting it had engaged in unconscionable conduct in its dealings with certain suppliers. Following admissions by Coles and agreement on the facts, the Court ordered Coles to pay penalties totalling \$10 million. Coles also provided an undertaking to the ACCC to establish an arbitration process overseen by the Hon. Jeff Kennett, that resulted in Coles refunding more than \$12 million to suppliers and, in addition, allowing suppliers to exit the Active Retail Collaboration program without penalty.

It has been a year of major product recalls. The recall of frozen berries, Infinity cables and vehicle airbags should have every business paying close attention to the integrity of their supply chain. We are committed to ensuring that all Australian suppliers, regardless of their size, meet their product safety responsibilities. For example, we have taken enforcement action against a large retailer, Toys R Us Australia, as well as smaller online traders for selling cots that failed mandatory safety standards.

For the past few years, relationship scams have hit consumers the hardest. To tackle the problem, in August the ACCC launched a Scam Disruption Project as a proactive way to engage with people that scammers may have targeted. About 70 per cent of those who

received the ACCC's warning letters stopped sending money overseas for at least six weeks. More broadly, we continued our scams awareness work through the Australasian Consumer Fraud Taskforce, which this year focused on encouraging consumers to get smarter with their data.

Our Indigenous consumer protection work is another highlight. With the support of many, the 'your rights mob' initiative has grown from a pilot program with the Tiwi Island community to a national project. I was pleased to visit the Tiwi community to see first-hand how our work is building confidence in Indigenous Australians about their consumer rights and paving the way for earlier detection of contraventions of the law.

Market analysis continues to play an important role in supporting our compliance and enforcement approach. To be effective across all our functions, we need to understand industry practices and dynamics. In May, we released a report on the debt collection industry in Australia. The report found there have been improvements in debt collection practices but some problem areas remain. We will use the findings to engage with the industry and improve compliance with our guidelines.

Our annual report to the Senate on private health insurance is another example of market analysis. This year we are examining the role of insurers, health providers and intermediaries in assisting consumers to understand their policies and make informed decisions about accessing health services that best suits their needs.

Our work in promoting and enforcing compliance with industry codes of conduct continued to contribute to improved outcomes for small business and consumers. On 1 January 2015, a new look Franchising Code of Conduct came into play. In March 2015, the ACCC also welcomed the introduction of the Food and Grocery Code of Conduct. Separately, the government announced a review of the Horticulture Code of Conduct in June 2015.

Infrastructure Regulation

The transition from Telstra's fixed line network to the National Broadband Network continues to be a mainstay of our communications work. Throughout the year, we continued our major inquiry into making final access determinations for fixed line services provided over Telstra's legacy copper customer access network. We also continued to engage with the government on the possible amendments to the regulatory framework arising from the Vertigan review. At the same time, we examined competition issues in the mobile and broadcasting markets, the audio-visual content sectors, spectrum developments, intellectual property markets and emerging technologies.

Since January we have adopted a new approach to provide more regular and in-depth analysis of fuel markets. We are now producing quarterly 'macro' reports looking at petrol price movements, and we are also conducting 'micro' market studies examining petrol price drivers in regional markets. Starting with Darwin and Launceston, the regional studies aim to shine a light on why petrol prices are higher in some regional locations.

We published monitoring reports covering competition and wider performance issues on the waterfront, at the four largest airports and in water markets. We also commenced assessing a proposal by Viterria Operations Ltd to introduce Long Term Agreements for its port capacity at its six wheat port terminals in South Australia under the Port Terminal Access (Bulk Wheat) Code of Conduct which took effect on 30 September 2014. The Code regulates the conduct of bulk wheat port terminal operators to ensure that exporters of bulk wheat have fair and transparent access to port terminal services.

The ACCC has two new formal tasks. In December, the government asked the ACCC to review the Commonwealth water charge rules for the Murray-Darling Basin and provide advice on possible amendments to these rules. In April, the government directed the ACCC

to commence a 12-month public inquiry into the competitiveness of wholesale gas prices in eastern Australia. The ACCC will report to government on both of these important matters in the 2015–16 financial year.

Australian Energy Regulator

In October 2014, Ms Paula Conboy joined the AER as the new Chair taking over from Andrew Reeves. Mr Reeves made a significant contribution, leading the AER through a time of major policy development and industry change.

It has been a standout year for the AER in putting previous reforms into practice. The culmination of many years' work saw the AER deliver the first network revenue decisions under revised rules and new *Better Regulation* guidelines. To help consumers and small businesses, the AER also redeveloped the price comparator website, *Energy Made Easy*.

Looking ahead, the AER will assume responsibility for regulating electricity networks in the Northern Territory and will be administering the National Energy Retail Law in Queensland for the first time. The AER is also preparing for the regulation of energy markets in Western Australia.

Looking forward

The recommendations of the Competition Policy Review, chaired by Professor Ian Harper, have the potential to re-invigorate competition policy in Australia, which is why we provided extensive input to the review and continue to advocate constructively on areas where, in our experience, competition laws need strengthening. We are working with the government as it considers its response to the Panel's final report.

The Panel's recommendations to expose more sectors of the Australian economy to competition show the considerable scope for reform. We support the report's findings on roads, shipping, intellectual property and parallel imports. We also support proposals to make the misuse of market power provision workable, to introduce a prohibition on concerted practices, and to improve merger assessment processes.

There is also a review of the Australian Consumer Law on the horizon. As part of the original process in developing the law, COAG agreed there would be an implementation review. In June 2015, consumer affairs ministers set the process in motion when they agreed to the *Terms of Reference* for the review. In 2016, Consumer Affairs Australia and New Zealand will conduct the review with a final report expected in March 2017. For our part, we believe the ACL has taken consumer protection to new levels in terms of the laws that underpin it, awareness and recognition among consumers and businesses, and the way in which regulators act to deliver compliance. The review of the ACL gives us a chance both to reaffirm the benefits of what we have, and to make the law even better.

In the immediate future, the ACCC will be raising the level of our enforcement and engagement work in the agricultural sector. Following the *Agricultural Competitiveness White Paper*, the government has provided us with resources to establish an Agricultural Enforcement and Engagement Unit. To drive the ACCC's work in this important economic sector, the government also intends to appoint a new Commissioner with particular responsibility for agricultural issues.

Looking back 40 years

This year, the ACCC celebrated the 40-year anniversary of the *Trade Practices Act 1974*, which was superseded by the *Competition and Consumer Act 2010*. The milestone provided an opportunity to reflect on the important role our competition and consumer laws play in our economy and also allowed us to acknowledge the many people who have made the ACCC what it is today. In February, the Chief Justice of the High Court of Australia, Robert French AC, delivered the inaugural Ron Bannerman Competition Lecture. Ron Bannerman was both the inaugural Trade Practices Commissioner and Chairman of the Trade Practices Commission. This new event is a fitting tribute to Ron Bannerman's enormous contribution to the acceptance of competition law in Australia.

Finance and staffing snapshot

The ACCC received an unqualified audit report on the 2014–15 financial statements from the Australian National Audit Office. These statements can be found in part 5 from pages 241 to 316.

The ACCC's overall financial position remains sound. The 2014–15 year ended with a modest operating deficit of \$0.6 million excluding depreciation (\$6.4 million including depreciation). This is largely due to an increase in the write down of property, plant and equipment after external revaluation.

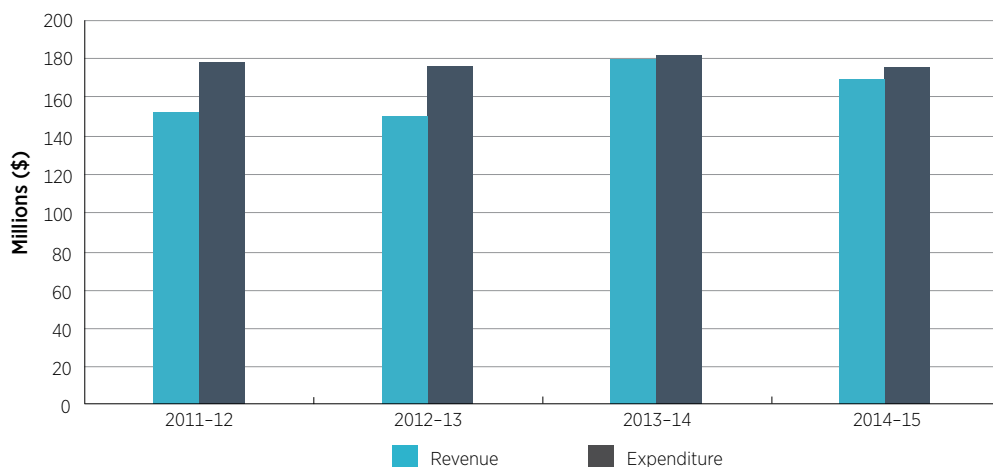
The net cost of services for 2014–15 was \$173.8 million (2014: \$181.9 million), with revenue from Government of \$167.4 million (2014: \$179.5 million).

Revenues from other sources of \$2.6m predominantly relates to revenue generated from new services rendered during 2014–15.

Expenditure on ACCC activities decreased by \$6.6 million in 2014–15. This is largely due to a decrease in separation and redundancies from \$5.2 million in 2013–14 to \$0.4 million in 2014–15 and legal settlements from \$3.5 million 2013–14 to \$0.1 million in 2014–15.

A comparison of revenue and expenditure trends over the last four years is illustrated in figure 1.

Figure 1.1: ACCC Revenue and Expenditure



Key financial results for ACCC for the financial years 2012–13 to 2014–15 are shown in table 1.1.

Table 1.1: ACCC comparative financial results 2013–14 and 2014–15

Departmental	2014-15 \$'000	2013-14 \$'000
Expenses		
Employee benefits	97 372	107 091
Legal fees	24 533	23 366
Other expenses	54 627	52 645
Total expenses	176 532	183 102
Own-source revenue		
Other revenue	2 621	1 056
Gains	91	105
Total own-source revenue	2 712	1 161
Net cost of services	173 820	181 941
Revenue from Government	167 446	179 517
Net operating surplus/(deficit)	(6 374)	(2 424)
Changes in asset revaluation reserve	247	(14)
Total comprehensive income	(6 127)	(2 438)
Operating cash balance	1 083	1 941
Receivables	36 576	26 662
Total assets	60 199	53 585
Total liabilities	57 117	49 089
Total equity	3 082	4 496
Administered fees and fines revenue	34 050	32 345

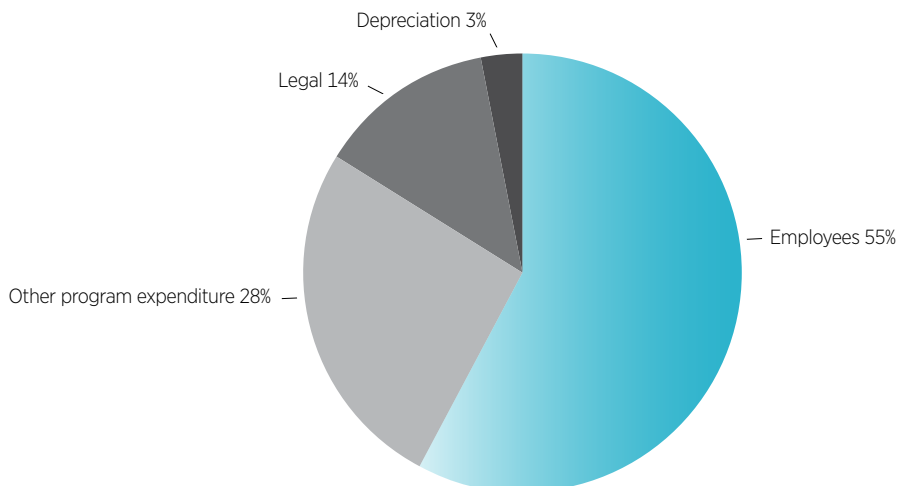
Expenditure

The ACCC is a knowledge-based organisation and as such spends approximately 55 per cent of total expenditure on employee costs, as compared to 58 per cent in 2013–14.

Legal expenditure increased by \$1.1 million or 5 per cent in 2014–15, compared to 2013–14. This is largely due to its volatile nature as expenses are dependent on the timing and outcome of litigation proceedings.

Other expenses (excluding depreciation) increased by \$1.9 million or 4 per cent in 2014–15. A major contributing factor was a greater use of contractors due to the APS wide recruitment restrictions and an increase in consultants for one-off projects. Depreciation and amortisation expenditure has remained constant over the same period.

Figure 1.2: ACCC expenditure, 2014–15



Operating result

The ACCC recorded an operating loss for 2014–15 of \$6.4 million, compared to an operating loss of \$2.4 million in 2013–14.

Statement of financial position

As at 30 June 2015, the ACCC reported net assets of \$3.1 million compared to \$4.5 million in 2013–14.

Assets

Total assets as at 30 June 2015 were valued at \$60.2 million compared to \$53.6 million in 2013–14, representing a 12 per cent increase. This increase primarily relates to an increase in the appropriations receivable. Contributing factors include a lower spend on the capital and equity budget and higher than expected cash generated from new services rendered during the year.

All assets have been managed in accordance with Commonwealth policies and reported following the relevant accounting standards.

Liabilities

Total liabilities increased from \$49.1 million in 2013–14 to \$57.1 million in 2014–15. The increase was largely due to increases in unearned revenue (\$2.2 m), the onerous lease provision (\$0.6 m), employee provisions (\$2.4 m), and trade creditors and supplier accruals (\$2.3 m) at year-end.

Administered revenue

Revenues administered on behalf of the government during 2014-15 amounted to \$34.1 million, an increase of \$1.8 million from last year (2013-14: \$32.3 million). This amount includes court-imposed fines and costs.

Administered expenditure

Expenditure increased as a consequence of a judgement handed down by the Full Federal Court in July 2015 that resulted in a refund of a penalty payment of \$11 million previously paid to ACCC in 2013-14.

Staffing summary

Table 1.2: Average staffing level

	Budgeted	Actual
2011-12	813	807
2012-13	745	798
2013-14	802	788
2014-15	735	715

Part 2

Overview of the ACCC and AER

About the ACCC and the AER

The Australian Competition and Consumer Commission is an independent Commonwealth statutory authority whose role is to enforce the *Competition and Consumer Act 2010* (the Act) and a range of additional legislation, promoting competition and fair trading, and regulating national infrastructure for the benefit of all Australians. The Commission has seven members, including the chair and two deputy chairs, all of whom are full-time members of the ACCC appointed by the Governor-General for terms of up to five years. Appointments are made after the majority of state and territory jurisdictions support the selection.

The AER is Australia's national energy market regulator. The AER's functions are set out in national energy market legislation and rules, and mostly relate to electricity and gas markets in eastern and southern Australia. The AER has its own independent Board, with one Commonwealth member and two state/territory members, any one of whom may be appointed as the chair. It is supported by staff who are engaged exclusively on energy matters and also has access to the ACCC's specialist legal and economic staff.

While specific functions vary according to the legislated responsibilities that underpin the ACCC and AER, the two bodies share many common objectives, both working to protect, strengthen and supplement competitive market processes.

The ACCC makes decisions through formal meetings of its Commissioners and the AER through its Board. ACCC Commissioners and AER Board members are statutory officers. The staff forms part of the Australian Public Service (APS).

Both agencies are within the Treasury portfolio.

The responsible minister for the period was the Hon. Bruce Billson MP, Minister for Small Business.

Role and functions

For competition to remain healthy, businesses need to operate within the boundaries of acceptable and fair behaviour towards their customers, competitors and suppliers. Those boundaries are set out in the Competition and Consumer Act and the other Acts the ACCC enforces. The ACCC's role is critical in making markets work for consumers now and in the future by:

- maintaining and promoting competition and remedying market failure by preventing anti-competitive mergers, stopping cartels and intervening when misuse of market power is identified
- protecting the interests and safety of consumers and supporting a fair marketplace—addressing misleading behaviour, removing unsafe goods and tackling unconscionable dealings
- driving efficient infrastructure through industry-specific regulation and access regimes.

The AER's functions as set out in national energy legislation include:

- setting the amount of revenue that network businesses can recover from customers for using networks (electricity poles and wires and gas pipelines) that transport energy
- monitoring networks and wholesale and retail energy markets to ensure businesses comply with the legislation and rules, and taking enforcement action where necessary.

Government expectations

The government has issued a Statement of Expectations for the ACCC, which outlines the government's expectations of its role and responsibilities, its relationship with the government, the responsible Minister and the Commonwealth Treasury, issues of transparency and accountability, and organisational governance and financial management. In it, the government states it is imperative that the ACCC act independently and objectively in performing its functions and exercising its powers as set out in the *Competition and Consumer Act 2010*.

The government's vision is for the ACCC to be a high performing and responsive agency that administers a principles-based regulatory framework in a way that:

- minimises compliance costs for business
- provides stability for business and the Australian community
- is efficient and effective
- balances the ACCC's objectives as set out in the Act.

The Statement of Expectations is available via the [ACCC website](#).

The government expects that the ACCC will act in accordance with regulatory best practice in its decision-making, policies, processes and communication practices to maximise effectiveness, efficiency and transparency, and minimise compliance costs. The government expects that the ACCC will regularly review its policies and procedures to achieve these goals.

The government expects that the ACCC will take into account the government's broad policy framework, in performing its role and meeting its responsibilities including:

- looking for opportunities to reduce compliance costs for business and the community and contribute to the government's deregulation agenda
- compliance with the government's enhanced Regulatory Impact Analysis requirements for all regulatory proposals, including considering the impacts of regulation on business and the community and costing proposals before they are introduced using the Regulatory Burden Measurement framework.

The government expects the ACCC to have an open and sound working relationship with the entities that it supervises. Where the ACCC has powers to make orders or rules or make exemptions, and exercising that power would have significant implications for the market or regulated population, the government expects that the ACCC will consult as appropriate with stakeholders and the government.

The ACCC provides a [Statement of Intent](#) responding to the government's Statement of Expectations for the ACCC.

The AER reports to the Council of Australian Government Energy Council (COAG) which is responsible for pursuing priority issues of national significance and key reforms in the energy and resources sectors. COAG expects the AER to perform its functions as defined in the Competition and Consumer Act and in accordance with all relevant legislative requirements and agreements.

To strengthen accountability and performance frameworks, the COAG Energy Council in 2014 developed a Statement of Expectations for the AER. In the statement, the Council outlines its expectations that the AER will:

- perform its legislative functions and implement a work program that supports the objectives set out in the national energy legislation

- adopt accountable and transparent processes, including by:
 - (a) publishing a Statement of Intent for each financial year, outlining how it will meet the Statement of Expectations
 - (b) publishing performance indicators in the Statement of Intent
 - (c) reporting against its performance in the AER's Annual report and in supplementary half yearly reports
 - (d) providing clear guidance on how the AER's funds have been spent
- effectively engage with market participants, consumers and government
- work productively with other market institutions in accordance with legislation and memoranda of understanding
- support the COAG Energy Council's work by providing it with advice on energy issues, reporting on the AER's priorities and work program and through clear communication on other matters as required.

The AER's [Statement of Intent](#) sets out the AER's work program in regulating energy networks and markets, and benchmarks that will measure its performance. The Statement also sets out how it aims to achieve principles of accountability and transparency, efficient regulation and effective engagement with stakeholders and other energy market bodies.

Legislative framework

In addition to administering the Competition and Consumer Act, the ACCC has responsibilities under the following legislation:

Airports Act 1996

Australian Postal Corporation Act 1989 and *Australian Postal Corporation Regulations 1996*

Broadcasting Services Act 1992

Copyright Act 1968

National Broadband Network Companies Act 2011

Radiocommunications Act 1992

Telecommunications Act 1997

Telecommunications (Carrier Licence Charges) Act 1997

Telecommunications (Consumer Protection and Service Standards) Act 1999

Trade Marks Act 1995

Water Act 2007

Water Act 2007—Basin Plan 2012

Water Charge (Infrastructure) Rules 2010

Water Charge (Planning and Management Information) Rules 2010

Water Charge (Termination Fees) Rules 2009

Water Market Rules 2009

Wheat Export Marketing Amendment Act 2012.

The AER has responsibilities under the:

National Electricity Law

National Electricity Regulations

National Electricity Rules

National Energy Retail Law

National Energy Retail Regulations
National Energy Retail Rules
National Gas Law
National Gas Regulations
National Gas Rules.

In Victoria, the AER also regulates cost recovery for mandated smart metering infrastructure under the *Victorian Electricity Act 2000*.

Purpose

The ACCC's purpose is to make markets work for consumers now and in the future. The ACCC works to enhance the welfare of the Australian community by fostering competitive, efficient, fair and informed Australian markets. Its aim is to bring greater competitiveness and fair trading to the Australian economy, working on the fundamental principle that this benefits consumers, business and the wider community.

The AER works to promote efficient investment in, and efficient operation and use of, energy services in the long-term interests of consumers with respect to price, quality, safety, reliability and security of supply. It does this through setting revenues that the network businesses can recover from consumers based on its assessment of efficient costs, ensuring wholesale energy markets operate competitively, and by educating and protecting consumers.

Values

The ACCC and AER appreciate and uphold the APS Values: Impartial, Committed to Service, Accountable, Respectful and Ethical (ICARE), and hold four additional complementary values as unique and meaningful to our work:

Independent: We pursue the interests of the Australian community, objectively and transparently.

Expert: We make timely decisions based on evidence and rigorous analysis.

Strategic: We make best use of our resources by taking considered and targeted action.

Trustworthy: We communicate honestly and directly and act respectfully.

Organisational model

The ACCC is a government organisation that enforces the Competition and Consumer Act and other legislation, but, as an independent statutory authority, it acts independently of government. The AER operates within the same business model.

The Competition and Consumer Act and other legislation require the ACCC and AER to protect consumers, encourage competition and regulate certain industries.

The ACCC and AER apply the law without fear or favour, to achieve universal compliance.

As well as enforcing the law, the ACCC and AER provide information to educate businesses and consumers about the laws they administer to encourage more effective voluntary compliance.

Investigating breaches of the law

Possible breaches of competition and consumer law come to the ACCC's attention through complaints and information from members of the public, the media, ACCC staff and other agencies.

The ACCC's Infocentre provides the initial response for all enquiries and complaints to the ACCC on competition and consumer issues.

The ACCC applies its Compliance and Enforcement Policy to determine whether a matter is sufficiently serious to take further action. After an investigation, the ACCC may accept an administrative resolution, issue infringement notices under the Australian Consumer Law, accept a court enforceable undertaking from the party involved or instigate civil or criminal court action.

The AER monitors compliance with the national energy market laws and undertakes investigations when possible breaches are identified. Breaches may be identified through the AER's market monitoring, self-reported by energy businesses or raised by the public or other agencies including ombudsman schemes. The AER has a range of enforcement options available if it is satisfied that a breach has occurred.

Making decisions in the public interest

ACCC decisions are made through formal meetings of the Commission. Only the Commission itself can decide to start court action, oppose a major merger proposal or authorise anti-competitive behaviour where there is sufficient public benefit.

AER decisions are made through formal meetings of the AER Board.

Both the Commission and the AER Board may delegate certain other decisions and powers to Commissioners, members or senior staff.

Promoting a culture of compliance

The ACCC and AER each foster a culture of compliance through integrated approaches to administering and enforcing the law.

Depending on the circumstances, the ACCC chooses from a range of compliance strategies—court action, court enforceable undertakings and administrative resolutions, education and liaison programs, media communications, and working with business (both big and small) on specific programs to change conduct.

The ACCC contributes to the development of Australian Government and state policies and procedures that promote compliance with competition, fair trading and consumer protection laws. It provides guidance to industry about trade practices compliance initiatives.

The AER works with energy market participants and other energy market bodies to promote a culture of compliance. Strategies range from court action, issuing infringement notices and reporting on conduct through to industry workshops, compliance bulletins and other educative tools.

Outcome and program structure

Under the outcome and program framework as presented in the government's budget, the ACCC has one outcome and two programs:

Outcome: Lawful competition, consumer protection, and regulated infrastructure markets and services through regulation, including enforcement, education, price monitoring and determining the terms of access to infrastructure services.

Program 1.1: Australian Competition and Consumer Commission.

Program 1.2: Australian Energy Regulator.

The details of the ACCC and AER goals and strategies are listed under 'Report on performance' (page 24), and 'Management and accountability' (page 201).

Organisational structure

Commissioners

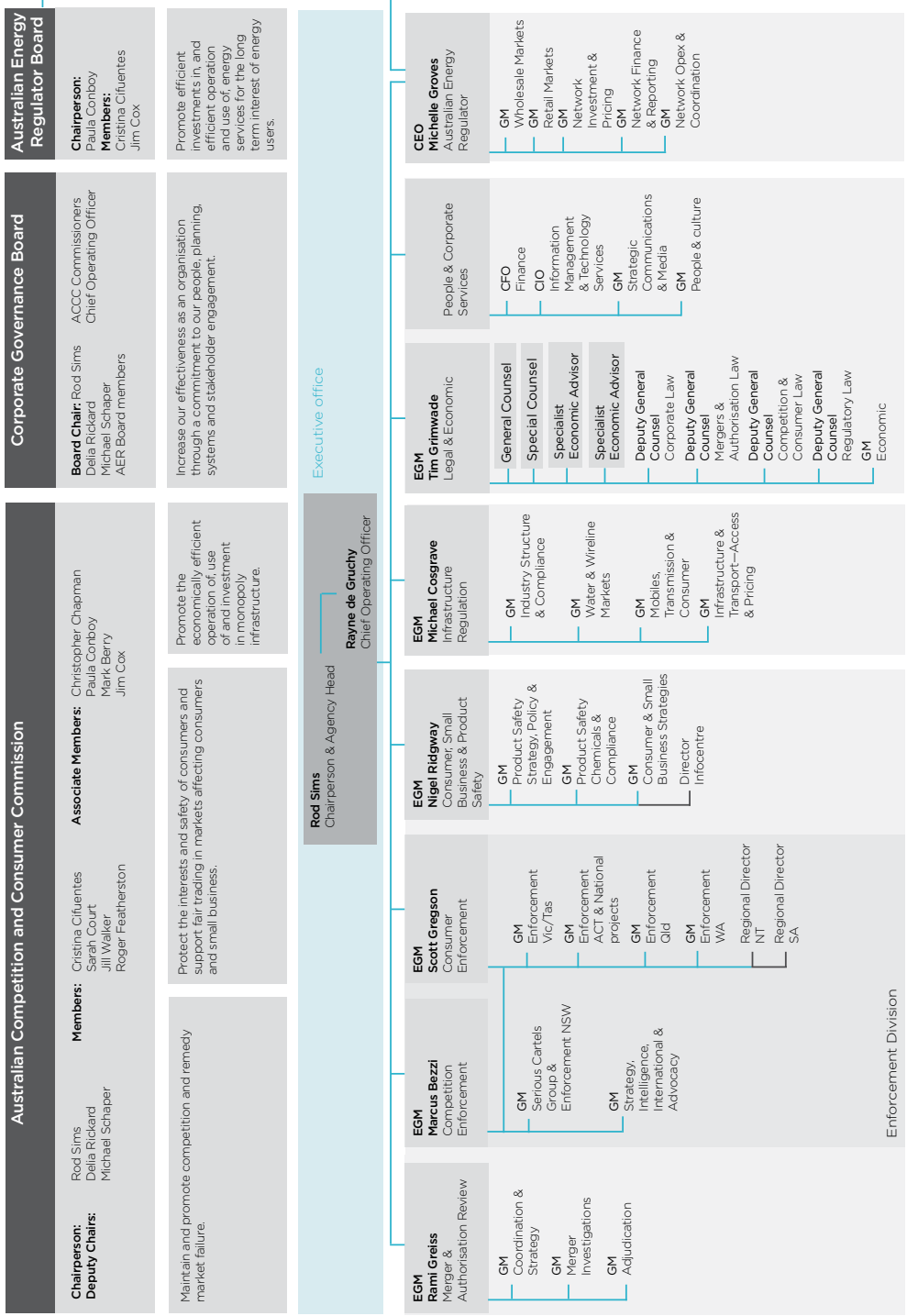
Chair	Rod Sims
Deputy chairs	Delia Rickard
	Michael Schaper
Members	Cristina Cifuentes
	Sarah Court
	Jill Walker
	Roger Featherston
Associate members	Paula Conboy
	Christopher Chapman
	Jim Cox
	Mark Berry

Australian Energy Regulator

Chair	Paula Conboy
	Andrew Reeves*
Members	Cristina Cifuentes
	Jim Cox

* Andrew Reeves was Chair until 18 July 2014, then acting Chair until 30 September 2014.

Figure 2.1: Organisational structure of the ACCC/AER (at 30 June 2015)



Key: GM—General Manager, EGM—Executive General Manager

Offices and contact details

ACCC national office

Address	23 Marcus Clarke Street, Canberra ACT 2601 GPO Box 3131 Canberra ACT 2601 telephone: 02 6243 1111 facsimile: 02 6243 1199
---------	--

ACCC Infocentre	business and consumer enquiries 1300 302 502
-----------------	--

ACCC website	www.accc.gov.au
--------------	--

Callers who are deaf or have a hearing or speech impairment can contact the ACCC through the National Relay Service, telephone 13 3677, or visit the website www.nationalrelayservice.com.au.

AER national office

Address	Level 35, The Tower, 360 Elizabeth Street Melbourne Central, Melbourne VIC 3000 telephone: 03 9290 1444 facsimile: 03 9290 1457
---------	--

AER email	AERinquiry@aer.gov.au
-----------	--

AER website	www.aer.gov.au
-------------	--

Offices

		Address	Telephone/facsimile
New South Wales	ACCC and AER Sydney office	Level 20 175 Pitt Street Sydney NSW 2000 GPO Box 3648 Sydney NSW 2001	telephone: 02 9230 9133 facsimile: 02 9223 1092
Australian Capital Territory	ACCC and AER Canberra office	23 Marcus Clarke Street Canberra ACT 2601 GPO Box 3131 Canberra ACT 2601	telephone: 02 6243 1111 facsimile: 02 6243 1047
Victoria and Tasmania	ACCC and AER Melbourne office	Level 35, The Tower, 360 Elizabeth Street Melbourne Central Melbourne Vic 3000 GPO Box 520 Melbourne Vic 3001	telephone: 03 9290 1800 facsimile: 03 9663 3699
	ACCC Hobart office	Level 2 70 Collins Street (Cnr Collins and Argyle streets) Hobart Tas 7000 GPO Box 1210 Hobart Tas 7001	telephone: 03 6215 9333 facsimile: 03 6234 7796
Queensland	ACCC and AER Brisbane office	Level 24 400 George Street Brisbane Qld 4000 PO Box 12241 George Street Post Shop Brisbane Qld 4003	telephone: 07 3835 4666 facsimile: 07 3835 4653
	ACCC Townsville office	Suncorp Plaza, Suite 2 Level 9, 61-73 Sturt Street Townsville QLD 4810 PO Box 2016 Townsville QLD 4810	telephone: 07 4729 2666 facsimile: 07 4721 1538
Western Australia	ACCC Perth office	Third floor East Point Plaza 233 Adelaide Terrace Perth WA 6000 PO Box 6381 East Perth WA 6892	telephone: 08 9325 0600 facsimile: 08 9325 5976
South Australia	ACCC and AER Adelaide office	Level 2, ANZ House 19 Grenfell Street Adelaide SA 5000 GPO Box 922 Adelaide SA 5001	telephone: 08 8213 3444 facsimile: 08 8410 4155

		Address	Telephone/facsimile
Northern Territory	ACCC Darwin office	Level 8 National Mutual Centre 9-11 Cavenagh Street Darwin NT 0800 GPO Box 3056 Darwin NT 0800	telephone: 08 8946 9666 facsimile: 08 8946 9600

Part 3

Report on performance

Performance reporting framework

This chapter reports on our performance for 2014–15 using the framework in the 2014–15 Treasury portfolio budget statements (PBS). The ACCC and the AER jointly report against one outcome, with the ACCC reporting against Program 1.1 and the AER against Program 1.2, as shown in table 3.1.

Table 3.1: Performance reporting framework

Drivers	<i>Competition and Consumer Act 2010</i> (Cth) (the Act) Portfolio budget statements ACCC and AER corporate and business plans
Outcome 1	Lawful competition, consumer protection, and regulated national infrastructure markets and services through regulation. These include enforcement, education, price monitoring and deciding access terms to infrastructure services.
Program 1.1	Australian Competition and Consumer Commission
Program 1.2	Australian Energy Regulator

Program goals and strategies

Below are strategies we use to reach each goal as we work towards achieving Outcome 1. Each strategy has its own measures, which are shown together with the results later in this chapter. The report on performance is separated into Program 1.1 (ACCC) and Program 1.2 (AER). In Part 4, Management and accountability, the ACCC and AER jointly report against the shared Goal 4.

Program 1.1 ACCC

Program objective

The ACCC program objective is to achieve compliance with the Act, and associated legislation, in order to protect, strengthen and supplement the way competition works in Australian markets and industries to improve the efficiency of the economy and to increase the welfare of Australians. This means the ACCC will take actions that improve consumer welfare; promote the long-term interest of end users in regulated sectors; protect competition; open markets to competition; or stop conduct that is anti-competitive or harmful to consumers.

Goal 1: Maintain and promote competition and remedy market failure

- Deliver outcomes to address harm to consumer and small business welfare through anti-competitive conduct and improve competition under the priority areas identified in the ACCC's Compliance and Enforcement Policy
- Assess and review mergers to prevent structural changes that substantially lessen competition with a particular focus on concentrated and emerging markets and markets of significance to the Australian economy
- Make decisions on authorisation and notification applications and merger reviews thoroughly and efficiently and give clear guidance to merger parties, authorisation and notification applicants, and market participants

- Improve the workability of emerging markets by advising on and enforcing industry-specific rules and monitoring market outcomes.

Goal 2: Protect the interests and safety of consumers and support fair trading in markets affecting consumers and small business

- Deliver outcomes to prevent and address harm arising in the priority areas identified in the ACCC's Compliance and Enforcement Policy and to improve compliance with the Australian Consumer Law
- Multiply the effectiveness of ACCC's compliance and enforcement initiatives through an active program of stronger and managed partnerships with Australian Consumer Law regulators, small business commissioners and law enforcement agencies
- Identify and implement nationally integrated approaches to minimise the risk of injury and death from safety hazards in consumer products
- Support a vibrant small business sector, deter anti-competitive and unconscionable conduct targeted at small business, and facilitate collective conduct by small business operators where that conduct is assessed to provide a net public benefit
- Empower consumers and small business to assert their rights under the Australian Consumer Law to secure fairer outcomes in the marketplace.

Goal 3: Promote the economically efficient operation of, use of, and investment in monopoly infrastructure in the long-term interest of end users

- Deliver network regulation to promote competition and meet the long-term interests of end users
- Improve the workability of emerging markets by enforcing market rules and monitoring market outcomes
- Respond to government requests to provide monitoring reports on industries in highly concentrated and newly deregulated or emerging markets
- Improve regulatory practices and processes, including by building relationships with domestic and international regulatory agencies to leverage their experience.

Program 1.2 AER

Program objective

The Australian Energy Regulator (AER) is the national energy market regulator. The AER's roles encompass the retail and wholesale electricity and gas markets and energy network infrastructure.

The objectives of the national energy legislation guide the AER's priorities and work program. The common objective through the legislation is to promote efficient investment in, and efficient operation and use of, energy services for the long-term interests of end users of energy.

Goal 1: Delivering better network regulation

- Promote efficient investment in, and efficient operation and use of, energy services for the long-term interests of consumers
- Implement network guidelines that cover how the AER:
 - assesses the regulated return on capital
 - scrutinises network businesses' expenditure proposals
 - encourages efficient investment
 - engages consumers in the regulatory process

- Develop benchmarking of network businesses
- Consult widely, including closely involving consumers in the regulatory processes
- Gain advice from the newly established Consumer Challenge Panel
- Make transparent decisions within statutory time limits.

Goal 2: Build consumer confidence in retail energy markets

- Promote a culture of regulatory compliance by energy businesses, including through compliance monitoring activities, investigations and reviews
- Monitor and report on retail energy markets and the performance of retailers active in those markets
- Assess applications for entry into the retail energy market and provide guidance to potential applicants so that authorised retailers and exempt sellers are aware of and can meet their obligations under the Retail Law.
- Enhance the functionality of the Energy Made Easy website to provide consumers with additional tools to assist them to navigate the retail energy market and understand their rights and available retail energy offers.

Goal 3: Supporting the efficient operation of energy markets

- Promote more efficient, competitive, transparent and secure energy wholesale and retail markets through compliance monitoring activities, investigations and reviews
- Take effective, targeted and timely enforcement action when necessary, and promote best practice through compliance publications and audits
- Report on market activities and pricing outcomes to detect consumer harm, market irregularities and manipulation
- Publish information on energy markets.

Program 1.1 and Program 1.2

Goal 4: Increase our organisational effectiveness through a commitment to our people, planning, systems and stakeholder engagement

- Build organisational capability and knowledge sharing with well-trained and supported people.
- Promote a safe, healthy and respectful work environment for our people
- Streamline our management of projects by using the skills and experience of our people
- Transform our specialist legal and economic services to increase the effectiveness of our operations
- Transform our corporate support services and systems to increase the effectiveness of our operations
- Implement a comprehensive strategy that supports our goals to ensure effective communication with our diverse audiences
- Lessen the compliance burden on business by investigating and implementing options for reducing regulation (red tape) while maintaining or improving regulatory outcomes.

Please see Part 4, 'Management and accountability', for our performance against this goal.

Program 1.1
Australian Competition and
Consumer Commission

Goal 1: Maintain and promote competition and remedy market failure

Significant outcomes 2014–15

Cartel conduct

- Succeeded in cartel case against Renegade Gas, Speed-E-Gas and their senior executives, who were ordered to pay a total of \$8.3 million for cartel conduct.
- Instituted proceedings against Olex Australia and several other parties for alleged cartel and exclusionary conduct.

Anti-competitive agreements

- Instituted proceedings against Informed Sources and five petrol retailers who subscribed to the Informed Sources petrol price information system, for alleged anti-competitive conduct in setting fuel prices.
- Instituted proceedings against the CFMEU for alleged secondary boycotts, attempting to induce a contract, arrangement or understanding and undue harassment or coercion.
- Negotiated a court enforceable undertaking with Cabcharge to allow competitors to process its payment cards in taxis. Accepted court enforceable undertakings from Mobile Oil, Italiattech, TMO Sports Pty Ltd and Standard White Cabs addressing anti-competitive conduct concerns in the industries they operate in.
- Succeeded in countering challenges to the ACCC's exercise of coercive powers in an investigation involving Sydney businessmen Paul and Moses Obeid and others, which failed in the Federal Court and on appeal.

Merger matters

- Assessed 322 merger matters in 2014–15, conducting public reviews of 42. No matters were opposed outright, but undertakings to address competition concerns were accepted in seven matters.
- Negotiated remedies for two of three global transactions involving GlaxoSmithKline and Novartis, where each was conditional on all the transactions proceeding. Competition concerns in Australia on the third transaction were fully resolved by the remedy provided to the European Commission.

Authorising potentially anti-competitive arrangements which provide public benefits

- Authorised Medicines Australia's latest code of conduct with conditions that require certain mandatory disclosures to improve transparency.
- Authorised a pilot program aiming to deal with oversupply of magazines to newsagents, and authorised the Australian Brick & Blocklaying Training Foundation to collect a levy to fund programs to address a skill shortage in bricklaying.

Our role and powers in promoting competition

Competitive markets lead to lower prices, better quality products and services, greater efficiency and more choice, all of which benefit consumers.

As Australia's only national competition regulator, the ACCC works to enhance the welfare of Australians by:

- maintaining and promoting competition
- addressing market failures.

We do this by enforcing Part IV of the Act, which prohibits:

- cartels and anti-competitive agreements
- misuse of market power
- exclusive dealing and resale price maintenance
- mergers that substantially lessen competition.

Cartel behavior involves businesses agreeing with their competitors to fix prices, rig bids, share markets or restrict supply of products and services. An anti-competitive agreement is made where there is a contract, arrangement or understanding between several parties that aims to, or is likely to, substantially lessen competition.

Misuse of market power occurs where a business with substantial market power in a market uses this power to:

- eliminate or substantially damage a competitor
- prevent another business from entering a market, or
- deter or stop another business from acting competitively in any market.

Exclusive dealing occurs when a person trading with another imposes restrictions on the other's freedom to choose with whom, in what or where they deal.

Resale price maintenance occurs where suppliers pressure resellers to charge their recommended retail price or any other set price.

Some mergers between companies raise competition issues. The ACCC assesses proposed business mergers to determine whether a merger will, or will be likely to, substantially lessen competition. Where a merger potentially raises competition issues, we will conduct either a public review or a confidential review. We publish information about public reviews on a public register to inform the public, along with businesses and their advisers, about the process we have used and the reasons for our decision.

Some anti-competitive conduct may be allowed to go ahead where the public benefit outweighs the public harm, including harm from reduced competition. The Act allows the ACCC to consider these applications for authorisation and notifications and make decisions on whether to allow them. The types of conduct we have allowed on public benefit grounds include collective bargaining, codes of conduct and joint ventures or alliances.

Compliance and enforcement tools

Court cases

The ACCC takes court action where, after considering all aspects of a matter, we see it as the best way to achieve our enforcement and compliance objectives. We are more likely to litigate where we see the conduct as particularly bad, where we are concerned about likely future behaviour or where the party involved fails to resolve the matter satisfactorily.

Enforceable undertakings

The ACCC often resolves alleged breaches of the Act by accepting court enforceable undertakings from the business involved. In these undertakings, which we record on a public register, the business usually agrees to:

- make good the harm they have caused
- accept responsibility for their actions
- establish or review and improve their compliance programs and culture.

If the business later breaches the undertaking, we seek to have it enforced in the Federal Court of Australia.

We may also use court enforceable undertakings where we have competition concerns with a proposed merger or acquisition. In an enforceable undertaking a merger party may agree to action that addresses concerns about a substantial lessening of competition, allowing the merger or acquisition to go ahead. These undertakings appear on the public register.

Administrative resolution

In some cases—for example, where we assess the potential risk of harm to competition or consumer detriment from particular conduct as low—we may accept an administrative resolution. Administrative resolutions generally involve the business agreeing to stop the conduct, compensate those who suffered, and take other measures needed to prevent future recurrences.

Education and advice

We believe that preventing a breach of the Act is better than acting after a breach has occurred. Therefore, the ACCC runs regular educational campaigns to inform and advise consumers and businesses about their rights and obligations under the Act and to encourage compliance. Our campaigns aim to educate both big and small businesses.

The ACCC publishes targeted and general information, including tips and tools, to encourage businesses to comply with the Act. We use a wide range of channels to disseminate this information. We also liaise extensively with business, consumer and government agencies about the Act and our role in its administration.

1.1 Stopping anti-competitive conduct

2014–15 strategy: *Deliver outcomes to address harm to consumer welfare through anti-competitive conduct and improve competition under the priority areas identified in the ACCC's Compliance and Enforcement Policy.*

- Measures:**
- Outcomes and impact of actions and policies to promote competition.
 - Improved levels of effective competition and more informed and better functioning markets.

Compliance and enforcement priorities in 2015

The ACCC's Compliance and Enforcement Policy sets out priorities for the year and the factors we take into account when deciding whether to pursue matters.

In February 2015 we released a revised policy that retains our four enduring priorities: cartel conduct, anti-competitive agreements and practices, misuse of market power and product safety. We focus on these areas because of their potential for significant harm to consumer welfare and competition.

The reference to anti-competitive agreements and practices encompasses agreements and understandings between competitors but also refers to practices engaged in by union officials which may breach the prohibitions on secondary boycotts and other anti-competitive arrangements by unions outside the scope of the exemptions in the Act.

In the area of cartels, the focus this year is cartel activity in government procurement.

Other priority areas in competition enforcement include competition issues:

- in the health and medical sectors
- in highly concentrated sectors, including issues identified through the ACCC's monitoring of the fuel industry.

Our 2015 compliance and enforcement priorities for consumer protection are outlined on page 62.

Cartels

Cartel behaviour involves businesses agreeing with their competitors to fix prices, rig bids, share markets or restrict supply of products and services. By conspiring to control markets in these ways, a cartel protects and rewards its inefficient members while penalising honest, innovative and well-run companies.

The ACCC has extensive powers to investigate cartels. We can compel anyone to give us information about suspected cartels and, under warrant, we can search company offices and the homes of company officers.

Companies and individuals, including cartel participants, help us to detect cartels. Under our *Immunity Policy for Cartel Conduct*, participants can ask us for immunity from civil and criminal proceedings by reporting their own involvement in a cartel.

Court cases

The following cases were finalised in 2014–15.

In 2014–15, the Federal Court ordered penalties for cartel conduct against **Renegade Gas Pty Ltd** (trading as **Supagas NSW**) and **Speed-E-Gas (NSW) Pty Ltd**, following litigation by the ACCC instituted in 2012. The ACCC alleges that these companies, through their senior executives and sales staff, gave effect to an anti-competitive cartel arrangement which included not supplying liquid petroleum gas (LPG) cylinders for forklifts to each other's customers.

The court made declarations to the effect that Renegade Gas and Speed-E-Gas contravened ss. 45(2)(b)(i) and 44ZZRK of the Act by:

- not approaching each other's forklift gas customers in Sydney
- not offering to supply, or declining to supply, forklift gas to each other's customers
- offering to supply forklift gas to each other's customers only at prices that they knew were not likely to induce the customers to change suppliers
- where either company did supply forklift gas to a customer of the other in Sydney, managing their response so that they only sought to replace approximately the volume or value of forklift gas sales lost to the other
- communicating with each other, including that they should stay away from the other's customers.

The court made declarations that company directors Paul Berman, Cory John Smith and Jay Russell Wilson were directly or indirectly knowingly concerned in, or a party to, the conduct by Renegade Gas and Speed-E-Gas. The court ordered penalties totalling \$8.3 million and contributions to the ACCC's costs totalling \$600 000.

On 4 December 2014 the ACCC instituted proceedings in the Federal Court against **Olex Australia Pty Ltd** and several other parties for alleged cartel and exclusionary conduct in the supply and acquisition of electrical cable throughout Australia. The parties who are joined in the proceedings are:

- Australia's two largest manufacturers of electrical cable, **Olex Australia Pty Ltd** and **Prysmian Power Cables & Systems Australia Pty Ltd**
- the electrical wholesaling businesses L&H (which is operated by **Lawrence & Hanson Group Pty Ltd**) and Rexel (which is operated by **Rexel Electrical Supplies Pty Ltd** and **Australian Regional Wholesalers Pty Ltd**)
- six senior executives from these manufacturing and wholesaling companies
- an industry association, **Electrical Wholesalers Association of Australia Ltd**.

In December 2014 the ACCC appealed the court's decision to dismiss the ACCC's proceedings against **Air New Zealand Ltd** and **PT Garuda Indonesia Ltd** (separate proceedings) in relation to an alleged air cargo cartel. In its proceedings, the ACCC alleged that Air New Zealand and Garuda contravened the *Trade Practices Act 1974*, now the *Competition and Consumer Act 2010*, by fixing the level of various surcharges to be applied to air cargo services that a number of airlines supplied between 2001 and 2006. The cases are ongoing.

On 25 May 2015 the ACCC started Federal Court action against a number of respondents in relation to conduct involving the 2009 tender process that the New South Wales Department of Trade and Investment (then the Department of Primary Industries) conducted for exploration licences over the Mount Penny and Glendon Brook coal tenements in the Bylong Valley in New South Wales. The companies and individuals involved are **Cascade Coal Pty Ltd**, **Loyal Coal Pty Ltd**, **Locaway Pty Ltd**, **Mincorp Investments Pty Ltd** (formerly known as **Voope Pty Ltd**), **Coal & Minerals Group Pty Ltd**, **Southeast Investment Group Pty Ltd**, **Moses Edward Obeid**, **Paul Edward Obeid**, **Richard Jonathan Poole**, **John Vern McGuigan** and **James William McGuigan**.

In December 2012, proceedings commenced against **Yazaki Corporation**, a wholly owned subsidiary of **Australian Arrow Pty Ltd**. The ACCC alleges that the respondents engaged in cartel conduct in relation to the supply of wire harnesses to Toyota Motor Corporation and its related entities in Australia. The case is ongoing.

At year's end, the ACCC had brought 12 proceedings alleging cartel conduct before the courts.

Education and advice

On 10 September 2014 the ACCC published its updated Immunity and Cooperation Policy for Cartel Conduct. The ACCC simplified the format of the policy as a result of targeted consultation in 2013 and early 2014. The policy incorporates a number of key changes:

- it implements a two-step process for the Commonwealth Director of Public Prosecutions (CDPP) to grant criminal immunity for cartel conduct where the CDPP will ordinarily issue a letter of comfort first, and subsequently provide an undertaking under the *Director of Public Prosecutions Act 1983*
- it removes 'clear leader' as a disqualification for immunity
- it consolidates various publications into one policy document and provides a set of FAQs.

Anti-competitive agreements

The Act bans contracts, arrangements or understandings between two or more parties that aim to, or are likely to, substantially lessen competition, even if that conduct does not meet the stricter definitions of other anti-competitive conduct such as cartel conduct.

In line with our published priorities, the ACCC is focusing on competition in concentrated market sectors. For example, we are reviewing agreements in the fuel sector on sharing price information and agreements by major supermarket chains about fuel discount 'shopper docket'. At year's end, we had two cases in court alleging these kinds of anti-competitive agreements.

Court cases

In December 2013 the ACCC appealed against the recent decision of the Federal Court dismissing the ACCC's allegations that **Australia and New Zealand Banking Group Ltd** had breached the price fixing provisions of the *Trade Practices Act 1974*, now the *Competition and Consumer Act 2010*.

The ACCC alleged that in 2004 ANZ required Mortgage Refunds Pty Ltd to agree to limit the amount of the refund it could provide to its customers for arranging ANZ home loans. At 30 June 2015 we were awaiting judgment in the appeal. Subsequent to that, on 31 July 2015, the court denied the ACCC's appeal.

In March 2014 the Federal Court made declarations and ordered that **Flight Centre Ltd** pay penalties totalling \$11 million for repeatedly attempting to enter into anti-competitive arrangements with three international airlines to eliminate differences in the international airfares offered to customers. The matter was appealed. At 30 June 2015 we were awaiting judgment in the appeal. Subsequent to that, on 31 July 2015, the Full Federal Court allowed Flight Centre's appeal.

In August 2014 the ACCC instituted proceedings in the Federal Court against **Informed Sources (Australia) Pty Ltd** and five petrol retailers—**BP Australia Pty Ltd**, **Caltex Australia Petroleum Pty Ltd**, **Eureka Operations Pty Ltd** (trading as **Coles Express**), **Woolworths Ltd** and **7-Eleven Stores Pty Ltd**—which are subscribers to Informed Sources Australia's retail petrol price information system.

In November 2014 the ACCC commenced proceedings in the Federal Court against the **Construction Forestry Mining and Energy Union (CFMEU)**, **John Setka** (Secretary of the Victoria-Tasmania Branch of the Construction and General Division of the CFMEU, and **Shaun Reardon**, an Assistant Secretary of the Victoria-Tasmania Branch of the Construction and General Division of the CFMEU. We allege that the CFMEU engaged in:

- secondary boycotts of Boral Resources (Vic) Pty Ltd and Alsafe Premix Concrete Pty Ltd (collectively, Boral) in contravention of s. 45D of the Act by way of a ban on the acquisition of Boral concrete at various construction sites in the Melbourne metropolitan area
- an attempted contravention of s. 45E of the Act by attempting to induce Boral to enter into a contract, arrangement or understanding not to supply Grocon
- undue harassment or coercion of Boral in connection with the supply of concrete by Boral to Grocon, in contravention of s. 50 of the Australian Consumer Law (ACL).

The ACCC also alleges that Setka and Reardon were knowingly concerned in the CFMEU's contraventions of s. 45E of the Act and s. 50 of the ACL.

In December 2014 the ACCC started proceedings against **Little Company of Mary Health Care Ltd** and **Calvary Health Care Riverina Ltd** (together Calvary) for alleged contraventions of s. 47 and/or s. 45 of the Act. The ACCC alleges that, by granting medical practitioners the right to use its medical facilities subject to national by-laws introduced in 2011, Calvary entered into contracts with medical practitioners that had the purpose of substantially lessening competition in day surgery markets, in contravention of the Act.

Undertakings

On 18 August 2014, the ACCC accepted a court enforceable undertaking from **Mobil Oil Australia Pty Ltd** in relation to the retail price information exchange service supplied by **Informed Sources (Australia) Pty Ltd**. This case, which involved Informed Sources and five other petrol retailers, commenced in August 2014 (see page 33 for more information).

In October 2014, the ACCC accepted court enforceable undertakings from **Standard White Cabs Ltd** (trading as **Townsville Taxis**) following an investigation of allegations that Townsville Taxis restricted its affiliated drivers from making lawful use of mobile telephones and third-party booking applications to accept taxi bookings.

In June 2015, the ACCC accepted a court enforceable undertaking from **Cabcharge Australia Limited** which outlines a process under which rival payment processors (third parties) will be able to process Cabcharge cards on their own in-taxi payment terminals. The undertaking provided by Cabcharge arises from an investigation into allegations that, between 2011 and 2012, Cabcharge had refused to deal with a third-party processor making requests pursuant to the Request Processing Policy.

The undertaking provides a clear pathway to facilitate third parties processing Cabcharge cards. If third parties obtain access, this will allow them to better compete against Cabcharge for processing revenue, as Cabcharge will no longer be the only terminal in a taxi that can process all forms of commonly used non-cash payment.

Misuse of market power

Misuse of market power occurs where a business with substantial market power in a market uses this power to:

- eliminate or substantially damage a competitor
- prevent another business from entering a market, or
- deter or stop another business from acting competitively in any market.

This behaviour is prohibited under the Act.

Court cases

On 25 February 2015 the Federal Court dismissed the ACCC's case relating to alleged misuse of market power and exclusive dealing concerning **Pfizer Australia Pty Ltd's** supply of atorvastatin to pharmacies. On 18 March 2015 the ACCC filed a notice of appeal seeking to overturn the court's findings that Pfizer did not have a substantial degree of market power at the time of the conduct and that Pfizer did engage in the alleged conduct. The case is ongoing. The appeal hearing is scheduled for November 2015.

In 2013 the ACCC initiated court proceedings in the Federal Court against **Visa Ap (Australia) Pty Ltd, Visa Inc., Visa U.S.A. Inc. and Visa Worldwide Pte Ltd**. The ACCC alleges that Visa, the operator of the world's largest retail electronic payments processing network, misused its market power, in contravention of the Act. The case is ongoing. The hearing in this matter is scheduled for September–October 2015.

Online markets

The ACCC continues to assess behaviour that affects competitive online markets. We are focusing on traditional 'bricks and mortar' businesses (that is, businesses with physical premises) that try to limit competition from new online businesses by:

- misusing their market power
- making exclusive distribution arrangements
- controlling prices through resale price maintenance.

Concentrated markets

The Australian economy features some markets that have a relatively small number of suppliers. There is a risk that these suppliers could misuse their power in those markets to prevent or damage competition. Therefore, the ACCC closely monitors their behaviour.

Competition and consumer issues in highly concentrated markets—in particular, in the supermarket and fuel sectors—remain a priority area for the ACCC.

The ACCC is taking court action in the fuel sector. See 'Anti-competitive agreements', page 33 for details of the Informed Sources case.

In 2014 the ACCC was successful in proceedings in the supermarket industry, including an important case against **Coles Supermarkets Australia Pty Ltd** and **Grocery Holdings Pty Ltd** (referred to as Coles). The ACCC alleged that it engaged in unconscionable conduct towards 200 of its smaller suppliers. Details of the case appear under 'Unconscionable conduct' on page 80.

Other work promoting competition

Harper review

The Competition Policy Review (Harper review) is critically important to the ACCC as the first major review of competition policy in Australia since the Hilmer review 20 years ago. We have engaged extensively with the review panel and in discussions since its final report was released, sharing the benefits of our expertise in administering competition law in Australia. Details of our involvement are under 'Assistance to parliamentary inquiries and government reviews' on page 89.

International collaboration on competition

The ACCC collaborates with international counterparts through forums such as the International Competition Network (ICN). In April 2015 the ACCC hosted the annual meeting of the ICN, which is the key event on the global competition calendar. See under 'International Competition Network' on page 86 for details of the conference and our work with the ICN.

Resale price maintenance

Resale price maintenance occurs when a supplier pressures a reseller to charge their recommended retail price or any other set price. The conduct therefore restricts businesses from competing on price. This conduct is anti-competitive regardless of its impact on competition.

A supplier may recommend that resellers charge an appropriate price for particular goods or services, but it cannot prevent a reseller charging or advertising below that price.

It is illegal for suppliers to pressure resellers to charge their recommended retail price or any other set price—for example, by threatening to stop supply or stop resellers from advertising, displaying or selling the goods below a specified price. It is also illegal for resellers to ask suppliers to use recommended price lists to stop competitors from discounting.

However, in most cases a supplier can specify a maximum retail price.

Section 48 of the Act specially prohibits resale price maintenance. However, where it would benefit the public, businesses can apply for authorisation from the ACCC.

Court cases

On 14 August 2014 the ACCC instituted proceedings in the Federal Court against **OmniBlend Australia Pty Ltd**. The ACCC alleges that OmniBlend attempted to engage in price fixing with a competitor and resale price maintenance by refusing to supply the competitor unless it stopped discounting the price of certain blenders. The case is ongoing.

Undertakings

On 11 December 2014, **Italiotech Australia Pty Ltd** and **TMO Sports Pty Ltd**, importers and wholesale distributors of bicycle parts and accessories to retailers Australia wide, provided court enforceable undertakings to the ACCC admitting that they had engaged in conduct that amounted to, or was likely to amount to, resale price maintenance.

1.2 Assessing mergers to maintain competition

2014–15 strategies:

Assess and review mergers to prevent structural changes that substantially lessen competition with a particular focus on concentrated and emerging markets and markets of significance to the Australian economy.

Make decisions on authorisation and notification applications and merger reviews thoroughly and efficiently and give clear guidance to merger parties, authorisation and notification applicants, and market participants.

Measure:

- Prevention of structural change in markets (particularly concentrated markets, emerging markets and markets of significance to the Australian economy) that substantially lessens competition.

Informal clearance and pre-assessments

Section 50 of the Act prohibits mergers and acquisitions that substantially lessen competition in any market in Australia or are likely to do so.

To assist business, the ACCC has an informal clearance process that enables parties that are planning a merger to seek the ACCC's view on whether a proposed acquisition is likely to have the effect of substantially lessening competition. Businesses may also apply to the ACCC for formal clearance of acquisitions.

There is no legislation underpinning the informal process; rather, it has developed over time so that merger parties can seek the ACCC's view before they complete a merger.

We consider mergers that come to our attention where they potentially raise concerns under s. 50. These mergers are generally flagged by the merger parties when they request an informal clearance. Alternatively, the ACCC may become aware of a proposed or a completed acquisition by monitoring media reports, from complaints or through referrals from Australian and overseas regulators.

We use the information available to us to determine whether a public review is required. Where we are satisfied that there is a low risk of a substantial lessening of competition, we may decide that a public review of the merger is unnecessary. These mergers are described as being 'pre-assessed'. A significant proportion of the mergers we assess are pre-assessments. Clearing mergers by pre-assessment enables the ACCC to respond quickly where there are no substantive competition concerns.

Both public and confidential mergers can be pre-assessed, without making market inquiries, on the basis of the information from the parties and other information before us.

Where pre-assessment is not applicable, the ACCC conducts a public review for non-confidential mergers.

In the case of confidential mergers, the ACCC discusses with the merger parties whether they want to proceed to a confidential review or undergo a public review once the merger is public.

Merger reviews

In reviewing mergers, we aim to work efficiently, transparently and effectively, taking account of the commercial needs of the parties involved. We also seek to inform the public, businesses and their advisers about the merger review process. We publish indicative timelines for mergers under public consideration in our online mergers register unless the merger is pre-assessed or subject to a confidential review.

The ACCC considered 322 matters under s. 50 of the Act in 2014–15—an increase of 8 per cent on the 297 matters in 2013–14. Of these:

- 278 were assessed as not requiring a public review (pre-assessed)—an increase of 15 per cent on the 242 pre-assessments in 2013–14
- 42 mergers were subject to a public review
- two were subject to a confidential review.

Of the 44 public and confidential reviews that we conducted in 2014–15:

- we required court enforceable undertakings in seven mergers to address competition concerns resulting in these mergers being cleared subject to undertakings
- we did not publicly oppose any mergers outright and did not express confidential opposition to or concerns about any mergers that were not subsequently publicly reviewed
- for one review we issued a statement of issues raising significant concerns but this review was discontinued because the transaction did not proceed
- we did not oppose (and did not seek undertakings for) 35 mergers that underwent an informal review. Of these, three were reviews of completed matters in which we discontinued the investigation
- in relation to an undertaking we accepted in 2009, a new undertaking and a variation to the 2009 undertaking were accepted to ensure the ongoing obligations would be fulfilled following a demerger.

The ACCC unconditionally cleared 80 per cent of those mergers that underwent a public or confidential review. This figure increases to 97 per cent when all mergers (including pre-assessments) are included. In seven matters we used our formal information-gathering powers under s. 155. This figure is consistent with previous years.

Statements of issues

When we reach a preliminary view that a merger raises competition concerns requiring further investigation, we release a ‘statement of issues’. A statement of issues provides the ACCC’s preliminary views, drawing attention to particular issues of varying degrees of competition concern, as well as identifying the lines of further inquiry that the ACCC wishes to take. The purpose of the statement of issues is to provide guidance to the merger parties and other interested parties and to invite further information that may either alleviate or reinforce the concerns of the ACCC.

After public consultation on a statement of issues, we may decide our concerns are valid and, where competition concerns remain, we may consider any undertakings put by the merger parties to resolve them.

In 2014–15, we issued a statement of issues in eight mergers and published all of those statements on our online mergers register. Three of these matters were still under post-statement of issues consideration at the end of the financial year, with the ACCC yet to reach a final view.

Public competition assessments

A public competition assessment is a document that gives a detailed summary of the issues that the ACCC considered when deciding whether a merger would substantially lessen competition or would be likely to do so.

The ACCC uses public competition assessments to help the public to understand our analysis of the competition issues involved in certain merger reviews. We generally prepare and publish a public competition assessment on our online mergers register when:

- we oppose a merger
- a merger is subject to enforceable undertakings
- the parties to the acquisition seek the disclosure
- a merger is cleared but raises important issues that we believe should be made public.

In 2014–15, the ACCC issued public competition assessments in these nine mergers:

- Expedia, Inc. proposed acquisition of Wotif.com Holdings Limited
- Peregrine Corporation proposed acquisition of 25 BP Australia petrol retail sites in South Australia
- Healthscope Ltd proposed acquisition of Brunswick Private Hospital
- BlueScope Steel Ltd proposed acquisition of Fielders Australia Pty Ltd
- BlueScope Steel Ltd proposed acquisition of Orrcon Steel
- BlueScope Steel Ltd proposed acquisition of OneSteel Sheet & Coil business from Arrium Ltd
- Sonic Healthcare Ltd proposed acquisition of assets of Delta Imaging Group
- Melbourne International RoRo & Auto Terminal Pty Ltd (a wholly owned subsidiary of Wallenius Wilhelmsen Logistics AS of Norway) proposed acquisition of a long-term lease to operate the Webb Dock West automotive terminal at the Port of Melbourne
- Gallagher Group proposed acquisition of Country Electronics Pty Ltd.

Merger remedies

The ACCC can accept court enforceable undertakings under s. 87B of the Act to resolve competition concerns about an acquisition.

In 2014–15, the ACCC accepted s. 87B undertakings to address competition concerns in seven mergers that were not opposed subject to the undertakings. The undertakings were accepted in the following reviews:

- Hertz Global Holdings Inc.—acquisition of Dollar Thrifty Automotive Group Inc.
- GlaxoSmithKline plc—proposed acquisition of human vaccines business of Novartis AG
- GSK Consumer Healthcare—proposed acquisition of GlaxoSmithKline plc and Novartis AG
- Elgas Limited—proposed acquisition of Wesfarmers Kleenheat Gas Pty Ltd's east coast LPG assets
- Australian Amalgamated Terminals Pty Ltd (AAT)—proposed acquisition of Automotive and Ro-Ro Terminal at the Port of Fremantle
- Victoria Quay International RoRo Terminal Pty Ltd—proposed acquisition of Automotive and Ro-Ro Terminal at the Port of Fremantle
- Federation Centres and Novion Property Group—proposed merger.

Public s. 87B undertakings are summarised in appendix 8.

Case study

ACCC allows CSR and Boral clay brick joint venture

In 2014 **CSR Ltd** and **Boral Ltd** notified the ACCC of a proposed joint venture to manufacture, market and supply clay bricks in eastern Australia.

CSR and Boral both supply building products including clay bricks, plasterboard, insulation, fibre cement and roof tiles.

In December 2014 the ACCC decided not to oppose the joint venture on the basis that, if it did not go ahead, Boral was unlikely to remain in clay brick manufacturing in eastern Australia.

The Boral and CSR joint venture would reduce the number of major clay brick manufacturers in eastern Australia from three to two (the other manufacturer being Austral Brickworks). In their submission, CSR and Boral argued that the price of clay bricks was significantly constrained by other external cladding materials that could be used as a substitute for clay bricks—for example, autoclaved aerated products, fibre cement and concrete masonry. To support this, CSR and Boral pointed to the long-term structural shift in demand for clay bricks over the past 40 years.

The ACCC recognised this long-term decline in demand for bricks. However, our market inquiries suggested that this was due to the growth of multi-residential dwellings, where brick is less commonly used, as well as the shift from double-brick to single-brick construction. Our inquiries indicated that, for many residential builders and end consumers, other forms of external cladding were not close economic substitutes for clay brick. Therefore, the ACCC defined the relevant product market as a market for the manufacture and supply of clay bricks.

Following a three-month delay during the review at the request of the merger parties, on 16 October 2014 the ACCC issued a statement of issues that identified preliminary competition concerns. In New South Wales and Queensland, our concerns focused on whether the reduction in the number of major clay brick suppliers in eastern Australia from three to two would likely result in an increase in the price of clay bricks as well as the reduction in the product range available.

A key element in assessing the proposed joint venture was what would happen if the joint venture did not proceed. After the ACCC released the statement of issues, we conducted an extensive review of business records and the financial performance of Boral Bricks East as well as s. 155(1)(c) oral examinations of two senior executives of the joint venture parties.

The ACCC concluded that there was sufficient evidence to support Boral's claims that, if the joint venture did not go ahead, Boral would end its brick manufacturing on the east coast to realise the land value of its brick manufacturing sites.

Therefore, the ACCC determined that it would not oppose the joint venture.

Concentrated markets

In 2014–15, the ACCC continued to focus on mergers in concentrated and emerging markets and markets that are significant to the Australian economy. Some of the public reviews we conducted during the year are detailed below.

First Pacific Company Ltd and Wilmar International Ltd—proposed acquisition of Goodman Fielder Ltd. The proposed acquisition involved Wilmar and First Pacific each acquiring a 50 per cent interest in Goodman Fielder.

Goodman Fielder is the largest supplier of branded edible oils to retailers and Wilmar supplies imported packaged edible oils, which supermarkets sell under their private labels.

The ACCC's public review found that, if the proposed acquisition went ahead, Wilmar and Goodman Fielder would continue to be competitively constrained by alternative existing and potential suppliers of vegetable oil. In particular, our market inquiries indicated that packaged vegetable oil can be readily imported from international suppliers.

Industry feedback also suggested that the major supermarkets and the wholesaler Metcash were likely to hold countervailing power in the market and could bypass Wilmar and/or Goodman Fielder if they attempted to raise prices after the acquisition.

Three inter-conditional merger transactions involving Novartis and GlaxoSmithKline. The ACCC assessed the following three acquisitions involving GlaxoSmithKline and Novartis, which were each conditional on all the transactions proceeding:

- a joint venture between the parties involving consumer health products
- GlaxoSmithKline's proposed acquisition of Novartis' human vaccines business
- Novartis' proposed acquisition of certain oncology products from GlaxoSmithKline.

Given the global nature of the transactions, the ACCC worked closely with the European Commission (EC), the US Federal Trade Commission and the New Zealand Commerce Commission in assessing these transactions and the remedies. Ultimately, the ACCC did not oppose any of the acquisitions:

- the joint venture involving consumer health products after accepting an undertaking from the parties to divest Novartis' smoking cessation products in Australia, including the Nicotinell brand
- GlaxoSmithKline's acquisition of Novartis' vaccines business after accepting an undertaking from GlaxoSmithKline to comply with its commitment to the European Commission to divest its meningococcal vaccine products on a global basis
- Novartis' acquisition of GlaxoSmithKline oncology products. The ACCC took a pragmatic approach and did not seek any standalone remedy in Australia as commitments provided to the EC fully resolved the competition concerns in Australia and relying on the EC remedy was not considered to raise any risks for the ACCC.

Elgas Ltd—proposed acquisition of Wesfarmers Kleenheat Gas Pty Ltd's east coast liquid petroleum gas business (not opposed after accepting s. 87B undertakings by Elgas Ltd, Wesfarmers Kleenheat Gas Pty Ltd and Wesfarmers Chemicals Energy and Fertilisers Ltd). The ACCC did not oppose Elgas's proposed acquisition of the east coast 'Kleenheat' business after competition concerns were resolved by undertakings.

The ACCC was concerned that, without the undertakings, the proposed acquisition would have substantially lessened competition for the distribution of non-automotive liquid petroleum gas in certain cylinder and bulk markets.

To address the ACCC's competition concerns, Elgas gave the ACCC an undertaking that it would divest certain assets in specific regional areas of Victoria, New South Wales and the ACT. The Kleenheat undertaking supported the divestment process.

Case study

ACCC allows Expedia's proposed acquisition of Wotif

In 2014, online travel agent Expedia Inc. notified the ACCC of its proposed acquisition of online travel agent Wotif.com Holdings Ltd.

The ACCC decided not to oppose the proposed acquisition. The ACCC considered that, given the dynamic nature of the industry and developments in related online sectors, such as metasearch sites, the acquisition was unlikely to substantially lessen competition.

At the time, Expedia and Wotif were two of the three largest online travel agents operating in Australia. The main area of overlap in their operations was for accommodation booking services, which allowed accommodation providers to distribute, and consumers to book, accommodation.

The ACCC's review focused on the likely impact of the proposed acquisition on the supply of online distribution services to accommodation providers. In a statement of issues published on 4 September 2014, the ACCC noted that Wotif was an important source of bookings for some accommodation providers and expressed a preliminary view that its removal from the Australian market may mean that those providers would pay higher commission rates to online travel agents.

However, some industry participants expressed the view that Wotif's lower rates could not be sustained and that, even if the proposed acquisition did not proceed, Wotif would need to increase its commission rates. This was because it would be forced by competition to remove its consumer booking fees, which would in turn result in Wotif increasing commission rates to cover the lost revenue.

We found considerable change in the competitive dynamics of the online accommodation distribution market in recent years. For example, a number of competitors, including Booking.com, had entered the market. Booking.com has grown quickly to become the largest online travel agent in Australia.

We also noted the increasing importance of metasearch sites such as TripAdvisor and Google Hotels Finder. These sites present offers from hotels and numerous online travel agents in one place so that consumers can choose between them. The ACCC found that hotels are now using metasearch websites to promote themselves alongside OTAs and to transact directly with consumers.

The ACCC also looked at overseas developments in metasearch sites as an indication of what was likely to happen in the Australian industry in the near future.

Despite the potential for commission rates to increase from current levels, the acquisition was unlikely to diminish the dynamic nature of competition in the industry, and other online travel agents and companies such as the metasearch providers would be expected to constrain Expedia in the future.

The ACCC therefore concluded that the proposed acquisition was unlikely to substantially lessen competition.

JBS USA Holdings Inc.—proposed acquisition of Australian Consolidated Food Investments Pty Ltd (Primo Smallgoods) (not opposed). The ACCC primarily considered the effects of the proposed acquisition on the fat cattle acquisition market in regional northern New South Wales and southern Queensland.

JBS has an abattoir at Dinmore in Queensland and Primo owned an abattoir at Scone in New South Wales. The two are around 500 km apart.

The ACCC found that JBS would continue to be constrained in the market for the acquisition of fat cattle given the number of alternative buyers (abattoirs and supermarket chains) active in the northern New South Wales and southern Queensland region. Therefore, the proposed acquisition was not likely to lead to a substantial increase in market concentration and sellers of cattle would continue to have several potential buyers available.

The ACCC also took account of market feedback that Primo had competed on the basis of price and other factors particularly attractive to some cattle producers, such as payment based on live cattle weight. Concerns were raised that Primo's offer would no longer be available after the proposed acquisition.

However, the ACCC did not find evidence that competition from Primo systematically constrained JBS's price or non-price offer.

While it determined that, in this instance, the proposed acquisition would be unlikely to substantially lessen competition, the ACCC will carefully scrutinise any further consolidation of abattoirs.

1.3 Authorisations and notifications to allow arrangements in the public interest

2014–15 strategy:

Make decisions on authorisation and notification applications and merger reviews thoroughly and efficiently and give clear guidance to merger parties, authorisation and notification applicants, and market participants.

Measures:

- Outcomes and impact of actions and policies to promote competition.
- Improved levels of effective competition and more informed and better functioning markets.
- Prevention of structural change in markets (particularly concentrated markets, emerging markets and markets of significance to the Australian economy) that substantially lessens competition.

Authorisations and notifications

The ACCC can, upon application, grant authorisations and allow notifications to stand to allow restrictions on competition where the public benefit outweighs any public detriment.

The Act primarily aims to prevent conduct that damages or is likely to damage competition. However, if competitive markets are not working efficiently and they are failing to maximise welfare, some restrictions on competition may be allowed in the public interest.

Under the Act, the ACCC can give legal protection to anti-competitive conduct when the public benefit outweighs the public detriment, including detriment that results from any lessening of competition. Depending on the type of conduct, businesses may apply for an authorisation or submit a notification to the ACCC.

We can authorise conduct that contains:

- anti-competitive arrangements, including cartel provisions (such as price fixing, controlling output or sharing markets) and exclusionary provisions (such as an agreement to limit or restrict the supply or acquisition of goods or services to particular people)
- disclosures of pricing and other information in the banking sector
- a secondary boycott, where two or more parties prevent a third party such as a potential customer or supplier from doing business with a target
- exclusive dealing (where a person trading with another imposes restrictions on the other's freedom to choose with whom, in what or where they deal)
- resale price maintenance (where the supplier specifies a minimum price below which goods or services may not be resold)
- dual-listed company arrangements that affect competition.

Notification procedures are usually more streamlined than authorisations, but they are only available for:

- collective bargaining (where two or more competitors get together with a supplier or a customer to negotiate terms, conditions and prices)
- exclusive dealing
- private price disclosures to competitors outside the ordinary course of business.

Both notification and authorisation processes are public. We publish the applications, public submissions and ACCC decisions on the [public register](#) on the ACCC website.

Authorisation applications

In assessing an authorisation application to determine likely public benefit and detriment, the ACCC consults with the public and publishes submissions on the public register, unless confidentiality is requested.

After considering submissions, we issue a draft decision, which the applicant and interested parties can discuss with us in a conference. We then reconsider the application in light of any further submissions and release our final decision.

During 2014–15, the ACCC issued 33 final authorisation decisions, excluding minor variations, for arrangements involving a wide range of industries. Among them were aviation, finance, mining, agriculture, aquaculture, wagering, electricity, waste services, healthcare and retailing.

Applicants sought authorisation for conduct such as collective bargaining, coordination agreements, joint tender processes and other price or fee agreements.

Significant authorisation decisions

Association of Magazine Publishers of Australia (authorised for approximately two years). The authorisation allows the Association to conduct a pilot program aiming to address an industry-wide problem of oversupply of magazines to newsagents. Forty newsagents will participate, over a three- to six-month period.

The pilot program will involve publisher members of the association and distributors Gordon & Gotch and Network Services limiting the supply of magazines to participating newsagents, including minimum sales efficiencies, ceasing to distribute titles after an agreed number of consecutive nil sales, reducing requirements for full copy returns, and limiting redistributions.

The ACCC considered that the pilot is likely to result in benefits in the form of information that indicates whether the proposed reforms may assist in addressing the oversupply problem. It may therefore assist with the development of an industry-wide code of conduct, and may also result in benefits by gathering the support of industry participants for industry reform. The ACCC considered that any detriment in relation to this pilot is likely to be very limited given its short duration and limited scope, and hence that the benefits are likely to outweigh any public detriment.

Queensland Office of Liquor and Gaming Regulation (OLGR) (authorised for five years). The authorisation allows drinking venues in local areas to work together with stakeholders and with the support of the OLGR to develop a liquor accord specific to their circumstances.

Liquor accords are agreements between licensed premises, local government, police and other local stakeholders to curb alcohol-related harms. They can contain various strategies, including to improve security for patrons and to promote the responsible service of alcohol.

The ACCC granted conditional authorisation for local liquor accords operating in Queensland to adopt a pro forma liquor accord developed by the OLGR. Under the terms of the authorisation, granted liquor accords are required to be registered with the OLGR. Registration of the liquor accord by the OLGR will only be granted if it is satisfied that any

restrictions on the price or supply of drinks agreed by accord members are appropriate for their area.

Participation in local liquor accords is voluntary and accord bodies can choose to adopt the OLGR's pro forma accord in whole or part.

Tasmanian Farmers and Graziers Association (authorised for 10 years). The authorisation allows vegetable grower members of the Tasmanian Farmers and Graziers Association to collectively bargain with vegetable processors Simplot and McCain as well as any future vegetable processor in Tasmania.

Collective bargaining between Tasmanian Farmers and Graziers Association and Simplot and McCain has been authorised since 2004. Participation in the bargaining is voluntary for both growers and processors.

The ACCC considered that collective bargaining was likely to provide transaction cost savings for growers and processors (for example, through sharing of legal and expert advisor costs for growers). It would also improve growers' input into contractual arrangements, which may allow them to negotiate arrangements that benefit them and are acceptable to the processors.

Australian Seafood Industries (authorised for up to 10 years). The authorisation allows Australian Seafood Industries (ASI) to collect a levy on the purchase of Pacific oyster spat for up to 10 years. The levy will enable ASI to undertake research into developing spat with resistance to the Pacific oyster mortality syndrome (POMS).

The levy will be collected from oyster growers who purchase Pacific oyster spat from hatcheries and will commence at \$2.80 per 1000 spat, indexed annually by CPI.

The ACCC considered that an industry-wide levy is an efficient way to fund research that seeks to protect Australian Pacific oyster growers from the potentially devastating impact of POMS.

Australian Brick & Blocklaying Training Foundation (authorised for 10 years). The authorisation allows participants to continue to collect a small levy on the sale of clay brick and concrete masonry products to fund programs to address the skill shortage in bricklaying.

The funds raised support programs to address shortages of trained bricklayers by promoting bricklaying apprenticeships to school leavers and bricklayers, and assisting apprentices to complete their training.

The ACCC considered that the levy will make it easier for bricklayers to take on apprentices. While the levy does add about \$15 to the cost of building a house, the ACCC considered that this is more than offset by the benefit to consumers of reducing delays to construction caused by bricklayer shortages.

Dalrymple Bay Coal Chain Coordinator (authorised for up to five years). The authorisation allows members of the Dalrymple Bay Coal Chain Coordinator group to coordinate operational arrangements relating to the transportation of coal for export through the Dalrymple Bay Coal Terminal.

The Dalrymple Bay Coal Chain Coordinator group comprises certain coal producer and rail operator users of the Goonyella Coal Chain. The arrangements are intended to allow producers and rail operators to coordinate their end-to-end use of system infrastructure to reduce losses and increase total system throughput.

The ACCC considered that the arrangements are likely to allow members to make use of train paths which would otherwise be lost, resulting in a benefit to all users of the Goonyella Coal Chain by reducing congestion, improving cycle times as a result of a reduction in dwell times at the Dalrymple Bay Coal Terminal, reducing below rail tariffs due to increased throughput, and potentially reducing demurrage costs and the need for infrastructure expansion.

These benefits may also demonstrate the broader benefits that may be achieved by greater coordination of the Goonyella Coal Chain.

Exclusive dealing notifications

Most exclusive dealing conduct breaches the Act only when it substantially lessens competition. However, third line forcing—a type of exclusive dealing—is prohibited regardless of its impact on competition. Third line forcing occurs when a supplier will supply goods or services only if the buyer also acquires certain goods or services from a third party. Parties can seek authorisation for third line forcing.

If a business wants to engage in an exclusive dealing arrangement, including third line forcing, that provides public benefits then it can protect itself from legal action under the Act by lodging a notification with the ACCC. A notification gives automatic legal protection from the lodgment date, or after 14 days in the case of third line forcing. The protection remains in place unless the ACCC revokes it. We can review the public benefit and harm from a notification at any time.

The ACCC may revoke protection for third line forcing if we are satisfied that the public detriment outweighs the public benefit. To revoke protection for other types of exclusive dealing, we must be satisfied that the conduct is likely to substantially lessen competition and that the public detriment outweighs the public benefit.

The ACCC received and assessed 777 exclusive dealing notifications involving 455 separate matters in 2014–15—9 per cent fewer separate matters than in the previous year.

Collective bargaining arrangements

There are two ways that businesses can seek protection under the Act for collective bargaining arrangements:

- by lodging a collective bargaining notification, which protects small business arrangements against legal action. The protection commences 14 days after lodgment but ends after three years
- by lodging an application for authorisation. Legal protection will begin if and when the ACCC grants the authorisation. The ACCC has a six-month time limit for considering all new applications for authorisation. For small business collective bargaining, a streamlined authorisation process is available: we agree to issue a draft determination within 28 days and a final determination in three months. The ACCC can give protection under an authorisation for more than three years depending on the circumstances.

In 2014–15, the ACCC issued 11 determinations authorising collective bargaining arrangements and allowed two collective bargaining notifications. The collective bargaining arrangements the ACCC considered during the year involved coal handling and supply, wagering and gaming, agriculture, aviation, newsagents and hospitals.

Other work assessing the public interest

- Under the *Trade Marks Act 1995* (Cth), the ACCC has responsibilities for assessing certification trade marks. A certification trade mark is used by businesses to indicate to consumers that a product or service meets a particular standard.
- The ACCC assesses rules for the use of certification trade marks, including:
 - requirements that goods, services or persons must meet to be eligible to use a certification trade mark
 - proposed processes for assessing compliance with certification requirements.

Case study

Authorisation of Medicines Australia's Code of Conduct for marketing prescription pharmaceutical products

In April 2015 the ACCC granted conditional authorisation to Medicines Australia for its latest version of its industry code which sets the standards for the marketing and promotion of prescription pharmaceutical products in Australia by member companies. Authorisation was granted until 16 May 2020.

In edition 18 of the code, Medicines Australia proposed a new reporting regime which requires reporting of 'transfers of value' (such as speaking fees, advisory board fees, or sponsorships to attend a conference) made to individual healthcare professionals. Edition 18 also introduced a \$120 per meal cap on food and beverages (plus GST and gratuities). Expenditure on food and beverages will not be included in the reporting of transfers of value.

The ACCC accepted that this new transparency regime was an important change to the code and focuses upon some of the most significant transfers of value.

To ensure that the significant benefits of the regime are realised, the ACCC imposed a condition that requires reporting of all relevant transfers of value. This addresses the ACCC's concern in its draft determination that if a doctor did not consent to the reporting then the individual payment would only be reported in aggregate. It also avoids healthcare professionals withdrawing their consent to reporting their details after receiving a transfer of value.

Medicines Australia must amend the code before 1 October 2016 to require the reporting of all transfers of value.

The ACCC also imposed conditions requiring the transparency reports compiled by Medicines Australia member companies to be published in a common accessible format and to be available for at least three years. Medicines Australia must also use reasonable endeavours to establish a central reporting system and provide six-monthly reports on its progress in doing so. This will ensure that the data collected is accessible to patients and third parties (such as healthcare professionals, consumer and healthcare professional bodies, researchers, academics, and the media).

- We also examine the rules to ensure they are not anti-competitive, misleading or deceptive.

One of the certification trade mark rule assessments we made is discussed below.

National Roads and Motorists Association (NRMA). The NRMA 'Owl Rating' is a certification trade mark that is intended to help consumers navigate the aged care system by giving them information about good-quality aged care.

Under the scheme, NRMA, assisted by Gallup Organisation, will make an assessment of a home support, care home or retirement village provider based on a range of factors including existing residents' satisfaction with the services provided. Providers that apply to use the certification trade mark and attain a good to excellent customer engagement rating will be given an 'Owl Rating' ranging from one owl (good levels of engagement) to three owls (excellent levels of engagement).

The ACCC invited submissions from interested groups, including industry bodies, large aged care providers, resident associations and relevant government departments as well as consumer organisations. After assessing submissions and minor amendments to the scheme rules, the ACCC approved the application.

Case study

First authorisation of resale price maintenance

In December 2014 the ACCC granted authorisation to the first application to set minimum retail prices—a practice known as resale price maintenance—under the Act. The ACCC has had the power to authorise resale price maintenance since the Act (then the *Trade Practices Act 1974*) was amended in 1995.

Tooltechnic Systems (Aust) Pty Ltd (Tooltechnic) is the exclusive importer and wholesaler of Festool power tools in Australia.

Festool products are complex—they often have a high level of features and functions and form part of a system that has a wide array of complementary accessories and consumables. Their attributes and quality differentiate them substantially so pre-sale and post-sale services to customers are important for selling Festool products.

Given that customers can access pre- and post-sale services from one retailer but purchase the product at a discount from another retailer which may not provide the services, Tooltechnic sought authorisation to address this risk, as high-servicing retailers may not gain sufficient return on product sales to continue providing these services.

The ACCC granted the authorisation, subject to conditions, until 31 December 2018.

It was particularly important for the ACCC's decision that Festool products are complex, quality products which are highly differentiated from others. Providing pre-sale services (explanations, demonstrations and 'try before you buy') and post-sale services (repairs, loan tools and training in use of a product) are important in selling these products.

We accepted that some retailers were gaining the benefit of, or 'free riding' on, the pre-sale and post-sale services of other retailers. Enabling Tooltechnic to set minimum prices would encourage all Festool retailers to offer better services to attract customers. The improved services would allow some customers to make more informed decisions in purchasing trade quality power tools and to continue to buy a premium trade-quality power tool accompanied by a high level of post-sale services.

In assessing the likely anti-competitive detriment, we found that Tooltechnic had a very small market share and was subject to competition from many large suppliers of trade-quality power tools. On balance, we considered that the likely public benefit from the expected increase in retail services would outweigh the clear, but limited, detriment of some customers facing a higher retail price for Festool products.

Our assessment of the public benefits and detriments was finely balanced. As this was the first authorisation application for resale price maintenance, the ACCC granted authorisation for four years rather than the five years sought by Tooltechnic. The ACCC will monitor the impact of resale price maintenance over that time.

To date the ACCC has not received any other applications for authorisation involving resale price maintenance.

1.4 Improve the workability of emerging markets

2014–15 strategy: *Improve the workability of emerging and evolving markets by advising on industry-specific rules and monitoring market outcomes.*

Measure:

- Improved levels of effective competition and more informed and better functioning markets.

Improving competition and consumer outcomes online

The online environment offers consumers more choice—more products, competitive prices and detailed information.

However, the ACCC is concerned that this choice is being eroded by various practices and types of conduct that mislead or deceive, aim to limit consumer choice and in some cases restrict competition.

In 2014–15 the ACCC has been particularly focused on the comparator websites across various industries. Comparator websites, which allow consumers to compare offers from various providers, are popular in the energy, travel and insurance sectors. The websites can improve transparency and promote competition but can occasionally mislead consumers significantly. These websites are key marketing tools and selling channels for business and can be used to mislead or deceive consumers.

In November 2014 the ACCC published its report *The comparator website industry in Australia* to examine these websites and their potential impact on competition and consumer welfare. Among other things, this report considered the extent to which these sites transparently provide information to consumers about both in how ‘front of house’ comparisons are made and in ‘back of house’ commercial arrangements.

The report was welcomed by the industry, as it provided clear guidance on appropriate disclosure of relevant information to users to enable them to make properly informed decisions. The report is available on the ACCC [website](#).

Following stakeholder consultations held throughout 2014–15, the ACCC published consumer and industry guidance for consumers using, and businesses operating, comparison websites. The guidance is available on our website and recommends that comparator website operators apply the following three guiding principles:

Principle 1: Facilitate honest, like-for-like comparisons

Principle 2: Be transparent about commercial relationships

Principle 3: Clearly disclose who and what is being compared.

In August 2014 **Compare The Market Pty Ltd** paid \$10 200 after the ACCC issued an infringement notice for claims made in recent advertising promoting Compare the Market’s health insurance comparison service.

Case study

ACCC authorises maximum fares agreement for Victorian country taxi operators

In 2014 the Victorian Taxi Association sought authorisation from the ACCC for taxi operators in regional and country areas to agree the maximum fares they would charge for work that was booked within cooperative networks.

Some independent taxi operators work together in cooperative networks. However, they are also separate businesses that are otherwise capable of competing with each other inside and outside of those cooperative networks.

In October 2014 the ACCC authorised the arrangement until the end of 2017. The authorisation only applies to cooperative networks in the Victorian country and regional taxi licence zones and does not extend to rank and hail services.

Up until 2014, the Victorian Government set fares for taxis. In 2014, as part of reforms to the state's taxi industry, the Victorian Government ceased setting fares in regional and country areas and required operators to notify their maximum fares and display these to passengers. In light of this, independent operators that work in cooperative networks wanted to be able to offer a common fare structure for work booked within a network.

The ACCC considered that, by authorising taxi operators to agree maximum fares, customers would have a simpler booking process and a better coordinated service. These efficiencies are likely to help the cooperatives to compete better with other taxi networks and hire cars.

The conduct will also allow the cooperatives to avoid some costs and adopt a less complex process for managing their contracted work with institutional customers.

While the ACCC considered that the arrangements are likely to lessen competition between individual operators, we took into account the Victorian Government's reforms, which are intended to promote competition and so may constrain that detriment.

The ACCC acknowledged there was considerable uncertainty about how competition in local markets will develop as a result of the reforms and how effectively new competitive pressures will constrain the cooperative networks in setting maximum fares.

We authorised the conduct for three years. This timeframe allows the industry to adjust to the overall reforms and, if competition does not develop as anticipated, prepare for the possibility that the ACCC may not re-authorise the maximum fare arrangement.

Industry analysis and research

To be effective in all of our functions, we need to understand industry practices and dynamics. Therefore, industry analysis plays an important role in supporting the ACCC's compliance and enforcement approach. It also helps us to understand and respond to emerging issues.

Debt collection industry

In 2014–15, to build on the updated *Collection guideline for collectors and creditors* (published by ASIC and the ACCC in 2014), we examined the debt collection industry and the potential for this sector to impact on consumer welfare, including the welfare of vulnerable consumers. Together with our Consumer Consultative Committee, the ACCC commissioned research on this industry, from Anteris Consulting Pty Ltd.

We released the results of this research in the report *Research into the Australian debt collection industry* in May 2015. The report acknowledges improvements in the debt collection industry and highlights ongoing challenges, particularly in high-transaction retail environments such as the energy sector.

The report revealed the scale and breadth of this industry, which affects many Australian consumers. Over 500 businesses in Australia offer some form of debt collection service and debt collectors make up to 65 million contact attempts each year.

The report identified a number of issues with the potential to impact on compliance:

- Some businesses in the sector that are not abiding by the law cause considerable detriment to vulnerable and disadvantaged consumers.
- There are some problems that can be traced back to the retailer or service provider. Consumer advocates are particularly concerned about debt collection practices within the energy sector. Billing issues, management of hardship, disconnections and the referral of debt to multiple debt collectors were cited as concerns.
- There were widespread concerns about the practices of credit repair businesses. While they are not considered part of the debt collection industry, these businesses can charge consumers large fees—consumer advocates state that these are sometimes larger than the debts involved—for support that is freely available to them from other agencies such as industry ombudsman schemes and financial counsellors
- Debt collection processes that impose additional costs that can add to the detriment for consumers who are already in financial distress.

The ACCC will undertake targeted engagement with a range of industries, including debt collectors and energy and telecommunications providers, to ensure they are aware of their obligations when collecting debts themselves and when engaging collectors or selling debts.

Energy sector

The AER has undertaken a more detailed examination of hardship issues in the energy sector. Information about the AER *Review of energy retailers' hardship policies and practices* is available at page 180.

Private health insurance industry

The ACCC also undertook research and consultation on the private health insurance industry.

We focused on examining the levels of transparency and complexity of information about private health insurance and the impact it may have on consumers and competition more broadly.

We received over 50 submissions from stakeholders during the consultation process in 2014 and will report on the research as part of our *Report to the Australian Senate on anti-competitive and other practices by health funds and providers in relation to private health insurance*.

Performance summary

Maintain and promote competition and remedy market failure

Measures

- Outcomes and impact of actions and policies to promote competition.
- Improved levels of effective competition and more informed and better functioning markets.
- Prevention of structural change in markets (particularly concentrated markets, emerging markets and markets of significance to the Australian economy) that substantially lessens competition.

Our performance and the results we achieve are described in detail throughout the report on performance. In this section we provide a short summary and some highlights of our performance in relation to competition, including merger and authorisation matters.

1. Outcomes and impact of actions and policies to promote competition

- We completed 56 initial investigations of competition matters.
- We completed 40 in-depth investigations of competition matters.
- We intervened in 10 matters to protect the competitive process, including:
 - instituting six competition cases
 - resolving concerns through enforceable undertakings in four matters.
- We achieved successful outcomes in one case (four on appeal), including gaining
 - \$8.3 million in penalties
 - one disqualification order against persons guilty of anti-competitive conduct, thereby preventing them from acting as a company director.
- We focused on priority competition matters, with 100 per cent of our interventions in priority areas, and/or addressing priority factors.

2. Improved levels of effective competition and more informed and better functioning markets

During 2014–15, the ACCC determined 33 authorisation applications within statutory timeframes. By doing so, we improved the level of effective competition and stimulated more informed and better functioning markets across a range of industries—for example, by:

- facilitating small business collective bargaining to enable more efficient and informed negotiation outcomes
- enabling the use of industry levies to fund research and development or education and training that would not be provided without the collective funding
- facilitating the use of industry codes that address problems associated with information asymmetry and conflicts of interest.

3. Prevention of structural change in markets (particularly concentrated markets, emerging markets and markets of significance to the Australian economy) that substantially lessens competition

- During 2014–15, the ACCC considered 322 mergers. We assessed all mergers in accordance with published guidelines.
- We pre-assessed 278 mergers as not requiring a public review. We conducted public reviews of 42 mergers and two confidential reviews.
- To prevent structural change in markets that would substantially lessen competition, we accepted undertakings to remedy competition concerns in seven of the mergers we considered.

Goal 2: Protect the interests and safety of consumers and support fair trading in markets affecting consumers and small business

Significant outcomes 2014–15

Focus on unconscionable conduct

- **Protecting businesses against unconscionable conduct:** Initiated two proceedings against Coles alleging unconscionable conduct which resulted in the court ordering Coles to pay a penalty of \$10 million, and an independent auditor appointed as part of the resolution instructing Coles to refund over \$12 million to 200 suppliers.
- **Protecting consumers against unconscionable conduct:** The court declared that Advanced Medical Institute (AMI) and others engaged in unconscionable conduct in promoting and supplying medical services and medications for men suffering from sexual dysfunction, and the High Court dismissed Lux distributors' application for leave to appeal against unconscionable conduct findings.

Delivering on priorities

- **Telecommunications sector:** Conducted ongoing consumer rights education and secured a \$225 000 penalty against Zen Telecom for false claims they were representing Telstra and breaching the ACL's unsolicited consumer agreement provisions.
- **Energy sector:** Finalised actions for misleading representations made to consumers about energy plans, with court ordered penalties of \$1 million against EnergyAustralia and \$100 000 against Bright Choice. Also obtained penalties of \$2 million against Origin Electricity and \$325 000 against Salesforce for unlawful door-to-door selling practices.
- **Protecting consumers online:** Compliance work saw multiple businesses change potentially risky practices preventing fake online reviews, improve their practices on drip pricing and we provided clear guidance for industry on comparator websites. Succeeded in actions against online electronics store Electronic Bazaar and online group buying website Spreets for false or misleading representations.
- **Scams:** Led National Consumer Fraud Week, redeveloped the Scamwatch website, and ran extensive ongoing media and online communications. Disruption project is stopping at least 71 per cent of people sending further money overseas to scammers.
- **Unfair contract terms:** Prepared for new business-to-business unfair contract terms and instituted cases against Europcar Australia and Chrisco Hampers Australia.
- **Credence claims:** Secured a penalty of \$2.5 million against Coles Supermarkets for misleading claims on par-baked bread products, and a \$300 000 penalty against Pirovic Enterprises for misleading claims on free range eggs.
- **Carbon Tax Repeal:** Found a high level of compliance with the Act.

- **Health and medical sectors:** Engaged with the industry on competition and consumer issues and secured penalties totalling \$250 000 against Safe Breast Imaging Pty Ltd for making false representations, and \$75 000 against Breast Check Pty Ltd.
- **Consumer warranties:** Secured a penalty of \$200 000 against Fisher & Paykel Customer Services Pty Ltd for misleading representations about the need for a consumer to purchase an extended warranty.
- **Indigenous communities:** Built partnerships and expanded communication and engagement work resulting in communities alerting us to conduct in our action against Chrisco Hampers.
- **Issues affecting older and vulnerable consumers:** Action against InvoCare Australia Pty Ltd, the largest operator of funeral homes, cemeteries and crematoria in Australia, for alleged misrepresentations to consumers.

Product safety priorities

- Actively administered over 596 product safety recalls. Initiated and negotiated 20, received and assessed 2601 mandatory reports, and conducted 3192 inspections, resulting in 29 recalls and 126 product types being withdrawn from sale.
- Managed several high profile consumer product safety issues including: the recall of nearly a million faulty Takata airbags, Samsung's reworking of 63 000 fire-risk top loader washing machines and the ongoing work regarding Infinity cable.
- Coordinated efforts to recall 4000 km of potentially deadly electrical cable, leading the task force that negotiated recalls with 27 of the major suppliers. Developed and ran a campaign to warn consumers of the dangers.
- Educated consumers and businesses about the dangers of toppling furniture, the dangers of portable pools, quad bike safety, DIY safety and infant safety (*Keeping Baby Safe*).

Working with partners

- Worked extensively with partners, industry, business, consumer groups and fellow regulators on a very wide range of matters to improve outcomes for Australian businesses and consumers.

Supporting small businesses

- Secured a \$500 000 penalty against South East Melbourne Cleaning Pty Ltd (trading as Coverall) for unconscionable conduct and contraventions of the Franchising Code of Conduct.

Our role in consumer protection

The ACCC's purpose is making markets work for consumers now and in the future.

Protecting the interests and safety of consumers and supporting fair trading is central to our work. The Act under which we operate includes the Australian Consumer Law (ACL), which is designed to protect consumers and ensure fair trading. As a single national law it ensures that, across Australia, consumers have the same protections, and businesses have the same obligations and responsibilities.

Our role is to:

- inform businesses and consumers of their rights and obligations under the Act
- monitor markets and emerging markets for unfair practices
- address harmful conduct, including by taking action against businesses and individuals that break the law.

We gather intelligence to identify market failures and take action to fix the problems, using our regulatory powers to address breaches and, when possible, gain remedies for consumers who have suffered.

We cannot pursue all complaints that we receive and we rarely become involved in resolving individual consumer complaints or disputes between individual small businesses. While the ACCC carefully considers all complaints, we prioritise business conduct that affects competition or causes widespread consumer detriment or potentially impacts on vulnerable and disadvantaged consumers. We exercise our discretion to direct our resources to investigate and resolve matters that provide the greatest overall benefit for competition and consumers.

To help prioritise our actions, we seek to focus on conduct involving one or more of these factors, including where the matter does not fall within the current priority areas:

- significant public interest or concern
- substantial detriment for consumers (including to small business)
- unconscionable conduct, particularly by large national companies or traders
- blatant disregard for the law
- national or international significance
- detriment to disadvantaged and vulnerable consumer groups
- concentrated markets that impact on small business and consumers
- significant new or emerging market issues
- industry-wide conduct or conduct that is likely to become industry-wide if we do not intervene
- situations where ACCC action is likely to have a significantly educative or deterrent effect
- situations where the business, person or industry has a history of breaking competition and consumer or fair trading laws.

The ACCC works closely with state and territory counterparts to monitor and enforce compliance with the ACL under a one-law, multi-regulator model. We cooperate on:

- joint projects that are aimed at reducing widespread harm
- cross-industry issues
- intelligence sharing on specific matters.

The ACCC also works with the network of ACL regulators to develop strategic projects to provide consistent messaging and education on broader ACL issues, including joint work on cancellation of flights by airlines and ticketing concerns involving sporting events.

For example in 2014–15, in conjunction with the states and territories, the ACCC coordinated joint investigations and integrated product safety strategies targeting the portable pools industry and the discount variety sector for the supply of non-compliant toys. For more information on the outcomes we have achieved working with our state and territory partners, see section 2.2, 'Increase our effectiveness through partnerships', on page 83.

Our compliance and enforcement tools

The ACCC actively monitors compliance risk through Infocentre contacts, trend and market analysis, intelligence and environmental scanning. We have processes in place to identify whether a compliance issue should then be prioritised for investigation and action. This action can include market engagement to build voluntary approaches to addressing the potential for non-compliance, consumer education to raise awareness of rights, and targeted work with small businesses, through to penalties and court action. The ACCC

aims to take action in a way that does not duplicate other market activities, is targeted and proportionate, and most effectively and efficiently responds to the harm identified or the threat to competition.

The ACCC has a range of tools to encourage and enforce compliance with the Act. These tools are detailed in our Compliance and Enforcement Policy, which can be found on our website.

We use the Compliance and Enforcement Policy to decide which matters to prioritise for investigation and action. The ACCC can seek various solutions in the courts, including injunctions and penalties. Outside of the courts, we can also use remedies such as enforceable undertakings.

To encourage compliance we engage with traders and industries and undertake broader education and communication programs to inform businesses and consumers about what constitutes anti-competitive or unfair trading conduct and how to make informed choices.

Court cases

In 2014–15, the ACCC was involved in 44 proceedings relating to consumer protection enforcement. Total penalties awarded during the year were in excess of \$20 million.

Court enforceable undertakings

To protect consumers and resolve matters under investigation, we can accept enforceable undertakings where a breach, or a potential breach, might otherwise justify litigation.

Under an enforceable undertaking, a company or an individual will generally agree to:

- remedy the harm caused by the conduct
- accept responsibility for their actions
- establish or review and improve their compliance programs and culture.

The ACCC may seek:

- corrective advertising in the print and electronic media
- refunds to affected customers
- community service remedies
- industry-wide education programs funded by the company providing the undertaking.

In 2014–15, the ACCC accepted eight consumer protection related undertakings.

Infringement notices

Where we believe that a breach of the Act requires a more formal sanction than an administrative resolution but we consider that a resolution is possible without going to court, we can issue an infringement notice.

In 2014–15, the ACCC received payment for 16 infringement notices from 12 traders, with penalties totalling over \$522 600.

Administrative resolutions

In some cases—for example, where we assess the potential risk as low—we may accept an administrative resolution.

Depending on the circumstances, administrative resolutions can range from a commitment by a trader in writing to a signed agreement between the ACCC and a trader setting out detailed conditions.

Administrative resolutions generally involve the trader agreeing to stop the offending conduct, compensate those adversely affected and take other measures necessary to

ensure that the conduct does not recur. If a trader re-offends after they have accepted an administrative resolution, we are likely to resolve the new matter differently. Examples of administrative resolutions we have agreed in 2014–15 include those with **Kia Motors Australia, Samsung Electronics Australia** and **AirAsia X Berhad**.

Voluntary industry self-regulation codes and schemes

The ACCC encourages and assists genuine voluntary compliance by individual businesses and industry sectors. Our voluntary compliance initiatives may range from individual trader compliance programs to sector-wide initiatives, including charters and voluntary codes of conduct tailored for individual industries.

Education and advice

The ACCC uses educational campaigns to ensure that consumers and small businesses are fully aware of their rights and responsibilities under the Act and to encourage businesses to comply with the Act.

The ACCC's educational campaigns also support consumers in navigating complex or difficult consumer choices and help them make smart choices.

To help consumers and small business, we distribute targeted and general information, including tips and tools, through a wide range of channels. We liaise extensively with business, consumer and government agencies about the Act and our role in its administration.

As well as guiding consumers and small businesses, we also seek to maximise the effect of enforcement actions. Penalties and reputational damage that follow a court judgment are powerful deterrents to other traders and encourage compliance. Court cases can also highlight to consumers how they can use their rights.

2.1 Deliver priority consumer law outcomes

2014–15 strategy: *Deliver outcomes under the priority areas identified in the ACCC's Compliance and Enforcement Policy to improve compliance with the Australian Consumer Law.*

Measures:

- Outcomes and impact of actions to prevent or address consumer harm or unfair trading.
- Efficiency and effectiveness of actions to promote consumer safety and fair trading and both consumer and small business awareness and assertion of their consumer law rights.

2015 compliance and enforcement priorities

Each year the ACCC reviews its compliance and enforcement priorities to determine where to focus our efforts so that we can maximise our impact on preventing and redressing consumer harm.

When reviewing our priorities we consult with ACL regulators, consumer advocacy groups, external dispute resolution and ombudsman schemes and other government departments on current and emerging issues; and analyse data from thousands of people who contact the ACCC Infocentre.

Our consumer protection priorities in 2014 were:

- consumer and small business issues in highly concentrated sectors—in particular, the supermarket and fuel sectors
- disruption of scams that rely on building deceptive relationships and cause severe and widespread consumer or small business detriment
- complexity and unfairness in consumer or small business contracts
- the telecommunication and energy sectors
- credence claims, particularly those with the potential to adversely impact the competitive process and small business
- consumer guarantees, particularly in the context of extended warranties.

We continue to finalise our work in 2014 priority areas. In addition, we have new priorities in 2015, which include:

- competition and consumer issues in the health and medical sectors
- ensuring compliance with new or amended industry codes of conduct, such as the franchising code and the new grocery code
- emerging systemic consumer issues in the online marketplace
- truth in advertising, particularly widespread conduct or misleading claims by large businesses that result in significant consumer detriment
- consumer protection issues impacting on Indigenous consumers
- consumer protection issues impacting on vulnerable and disadvantaged consumers, with a particular focus on older consumers and consumers who are newly arrived in Australia

- finalising our role in ensuring that carbon tax cost savings are being passed through to consumers
- product safety issues where there is the potential to seriously harm consumers, which remains an enduring priority. In 2014–15 we were particularly focused on working with industry to improve product safety through minimising the supply of unsafe goods, by focusing on good practice in the manufacture, sourcing and quality assurance of consumer products.

Consumer protection in the telecommunications sector

Consumer protection in the telecommunications sector has been an ongoing priority for several years. Our focus on this area results from:

- the number of complaints that regulatory agencies receive
- ongoing behaviour of concern
- the potential for issues to emerge as a result of new technology.

In the telecommunications sector we continue to see a range of conduct we consider is misleading and deceptive, or a breach of the ACL. Ongoing high levels of consumer complaints to the ACCC and the Telecommunications Industry Ombudsman (TIO) indicate that it is an ongoing area of concern, with new practices emerging. We have worked extensively over a number of years on both industry engagement and consumer education, for example last year working with ASIC, AMTA, the TIO and ACMA, on a tool for students to understand and use their consumer rights when they have a problem with a mobile phone. We also regularly review and update our online consumer advice, including on NBN transition. However, issues remain, which we continue to act on. Some of the enforcement actions we took in 2014–15 to address concerns about advertising and marketing are detailed below.

Court cases

In 2014 the ACCC instigated court proceedings against **Zen Telecom Pty Ltd** for misleading or deceptive representations made during unsolicited calls to consumers. The ACCC alleged that during these calls Zen Telecom claimed that they were acting on behalf of Telstra or a business associated with Telstra. The ACCC also alleged that Zen Telecom breached the unsolicited consumer agreement provisions of the ACL.

Zen Telecom supplies telephone, broadband, mobile and mobile broadband services across Australia under the names **XLN Telecom, Venus Telecom, Action Telecom, Alpha Talk and Telko Key**.

In September 2014 the Federal Court made declarations, imposed injunctions and ordered **Zen Telecom** to pay \$225 000 in pecuniary penalties.

The ACCC also alleged that Zen Telecom breached the unsolicited consumer agreement provisions of the ACL.

Infringement notices

In December 2014 **Telstra Corporation Ltd** paid \$102 000 after the ACCC issued an infringement notice concerning its iPhone 6 advertisement. The ACCC considered that Telstra's advertisement misrepresented to consumers the price of the phone and phone plan bundle.

In March 2015 **iiNet Limited** paid penalties of \$204 000 after the ACCC issued two infringement notices concerning advertisements for iiNet's Naked Broadband 250 GB Plan. The ACCC issued the infringement notices because we had reasonable grounds to believe that iiNet's advertisements contravened the ACL by failing to prominently state the total minimum price of the service.

Consumer protection in the energy sector

We have worked on a number of consumer protection matters in the energy sector over a number of years. We finalised our compliance and enforcement project to address the harm caused by many energy retailers involved in door-to-door selling. Our next area of focus in the energy sector is misleading discount claims, known as 'discounts off what?' Discounts always sound good but, when the nature of the discount is unclear, consumers can go wrong. One example is retail energy plans that promise benefits, discounts or savings but are unclear on what the discount is off or whether consumers can actually make the savings promoted. We are increasingly concerned that claims of benefits, discounts or savings in energy promotions are misleading consumers. The ACCC's efforts have been welcomed by consumer groups, with members of the Consumer Consultative Committee reporting that our action against major energy retailer AGL is encouraging a change in industry-wide practices as energy retailers recognise the need to be honest and transparent in energy offers. The results of some of our enforcement efforts on energy discounts and other matters are outlined below.

Consumers can find it hard to compare energy plans and decide on which one suits them best. Our action will help them choose the right plan for their needs by ensuring retailers are clear about the discounts offered. In making their decision, consumers can also use the AER's [Energy Made Easy](#) website, to compare gas and electricity offers.

The Australian Consumer Law and the National Energy Retail Law and Rules contain a number of provisions aimed at protecting consumers of energy products. The responsibility of protecting energy consumers is allocated between the ACCC (with other ACL regulators) enforcing the ACL provisions and the AER enforcing the National Energy Retail Law. Information on AER cases is on page 186.

Court cases

In February 2015 **Origin Energy Ltd** and two of its subsidiaries were ordered to pay penalties totalling \$325 000 for contravening the ACL. The ACCC considered that Origin had made false or misleading representations on the level of discount that residential consumers in South Australia would receive under a DailySaver energy plan.

In March 2015, in proceedings brought by the ACCC, the Federal Court ordered **Origin Energy Electricity Ltd** to pay \$2 million in penalties for unlawful door-to-door selling practices. The court also ordered Origin's marketing company, **SalesForce Australia Pty Ltd**, to pay \$325 000 in penalties.

In March 2015 the Federal Court ordered **EnergyAustralia Pty Ltd** to pay penalties of \$1 million and its former telemarketing company, **Bright Choice Australia Pty Ltd**, was ordered to pay penalties of \$100 000 for contravening the ACL. The court also declared that, to sell EnergyAustralia's electricity and gas plans, EnergyAustralia and Bright Choice had made false or misleading representations and engaged in misleading or deceptive conduct when dealing with certain consumers.

In April 2015 the Federal Court ordered **AGL South Australia Pty Ltd** to pay penalties of \$700 000 and to offer refunds totalling approximately \$780 000 to 23 000 consumers for making false or misleading representations about the level of discount that residential consumers would receive under AGL South Australia energy plans.

Infringement notices

In February 2015 **IPower Pty Ltd**, trading as **Simply Energy** (in partnership with **IPower 2 Pty Ltd**) paid \$20 400 after the ACCC issued two infringement notices for alleged misleading door-to-door sales conduct.

The ACCC alleged that sales representatives told consumers that there was an 'urgent problem' or 'something wrong' with their existing electricity supply, when this was not the case. As a result of this conduct, the ACCC issued the infringement notices because we had reasonable grounds to believe that IPower contravened the ACL by making false or misleading representations about the standard or quality of goods during door-to-door sales conduct.

Online consumer issues

Online trade and commerce presents both significant opportunities and challenges for competition and consumer protection. Australian consumers are entitled to the same safety protections and outcomes when shopping online as they do when shopping with traditional, 'bricks and mortar' retailers. The ACCC has been actively monitoring and engaging with businesses about online supply to make sure that they continue to comply with the consumer protections in the ACL. There are potential issues of jurisdiction for sites with no presence but sales in Australia, new practices that may be harmful to competition or consumer welfare, and online payment mechanisms that make practices such as drip pricing possible.

We have been focusing on a range of different online issues for a number of years now. For example in 2013 we began working with the industry on issues to prevent barriers to competition between online traders or limitations on the ability of small businesses to compete effectively online. In 2014 we began work on new online issues around comparator websites and the incremental disclosure of fees and charges by traders, referred to as drip pricing. Our latest actions on these issues are outlined below.

Online trading

Online trading is a rapidly expanding market, attracting many new business entrants and consumers.

The digital economy can deliver increased choice and improved customer service for consumers and opportunities for small business. However, it presents a number of challenges in the ACCC's consumer protection activities and in detecting and gathering evidence of harmful conduct.

In August 2014 the ACCC instituted proceedings against **Hillside (Australia New Media) Pty Ltd** trading as **Bet365**. The ACCC alleged that Bet365 made misleading representations on offers of 'free bets' and 'deposit bonus' to new customers who joined up online. The ACCC alleged that Bet365's 'free bets' and 'deposit bonus' offers conveyed the general thrust or dominant message that new customers of Bet365 would be entitled to up to \$200 in bets without limitation or restriction. In fact, the offers were subject to a number of conditions that were not prominently displayed. The matter is awaiting a court decision.

In August 2014, the ACCC instituted proceedings against **Valve Corporation Pty Ltd**. The ACCC alleged that Valve Corporation made false or misleading representations on the application of the consumer guarantees under the ACL.

Valve is an entertainment software and technology company located in the United States. Valve owns and operates an online computer game distribution platform known as Steam that has over 65 million users worldwide. Valve sells computer games through Steam to Australian consumers but does not have a physical presence in Australia.

The ACCC alleges that Valve made false or misleading representations to Australian customers of Steam that consumers were not entitled to a refund for any games sold by Valve via Steam in any circumstances and Valve had attempted to exclude the consumer guarantees provided under the ACL. Misleading consumers about the existence and extent of their consumer rights raises serious concerns for the ACCC. The matter remains before the court.

In December 2014 the ACCC issued proceedings against **Dhruv Chopra**, the operator of online electronics store **Electronic Bazaar**. The ACCC alleged that Chopra made false or misleading representations about the availability of consumer refund rights and the extent of Electronic Bazaar's liability for faulty goods. In May 2015 Chopra was ordered to pay penalties totalling \$100 000 for contravening the ACL.

In March 2015, as a result of court proceedings and pending further orders, **Online Dealz Pty Ltd**, an online superstore, and its director and sole shareholder, **Janet Lucas**, provided undertakings to the Federal Court to refrain from supplying baby cots and strollers that the ACCC alleges do not comply with mandatory safety standards. The allegations remain before the court.

In April 2015 the Federal Court ordered **Spreets Pty Ltd** to pay total penalties of \$600 000 for making false or misleading representations to consumers about deals offered on its online group buying website, in contravention of the ACL.

Fake online reviews

Australian consumers use online reviews of goods and services in making many purchasing decisions. While reviews can be helpful, fake online reviews potentially mislead consumers and can either give businesses an unfair competitive advantage or disadvantage them.

The ACCC published general guidance for businesses supplying products or services online in December 2013, to encourage businesses which published online reviews that were fake, incentivised or part of a commercial relationship between the review platforms and the reviewed business to improve these practices so that they did not breach the Act. In 2014–15, our industry engagement saw businesses more actively moderating reviews that may be false and misleading. We also saw some segments of the market improving their own review guidance, or adopting the ACCC guidance, and otherwise improving the transparency of reviews for consumers. The ACCC took specific action under its compliance and enforcement priorities to investigate and run a court case on fake online reviews.

In July 2014 the ACCC commenced proceedings against **A Whistle (1979) Pty Ltd** (trading as **Electrodry**) for alleged involvement in the posting of fake online testimonials. Electrodry is a franchised business that provides carpet, drapery, grout, upholstery and mattress cleaning services. It has over 100 franchises in Australia. The case is ongoing.

Comparator websites

Comparator websites, which allow consumers to compare offers from various providers, are popular in the energy, travel and insurance sectors. They are an important marketing tool for businesses. The websites can improve transparency and promote competition but can mislead consumers when they overstate the savings that can be achieved or fail to provide full information about the comparisons they are making.

Having worked with industry to improve standards for comparator websites in 2013–14, in 2014–15 the ACCC published its report *The comparator website industry in Australia* as well as guidance for consumers who use comparator websites and businesses that operate comparator websites. The report was welcomed by the industry, as it provided clear guidance on appropriate disclosure of relevant information to users to enable them to make properly informed decisions. The report is available on the ACCC [website](#).

In August 2014 **Compare The Market Pty Ltd** paid \$10 200 after the ACCC issued an infringement notice for claims made in recent advertising promoting Compare the Market's health insurance comparison service. Between 17 March and 19 May 2014, Compare The Market distributed a letterbox pamphlet in Queensland, New South Wales and Victoria, in which it claimed, 'We now compare more health funds than any other website in Australia' and 'Compare more health funds than anywhere else'. In fact, there were two other websites that compared the policies of more health insurance funds than Compare

The Market, including the website operated by the Private Health Insurance Ombudsman (www.privatehealth.gov.au). Compare The Market also made the same or similar representations in other media, including its website, banner advertising, flyers, television infomercials and a digital display in its office foyer.

Drip pricing

Drip pricing involves the incremental disclosure of fees and charges in the online bookings process. It harms both competition and consumers. Consumers see a 'headline' price advertised when they start the booking process but find that additional fees and charges have been added at the payment stage. Drip pricing is not transparent, may mislead consumers and makes it difficult for businesses to compete on a level playing field.

In 2014–15 the ACCC wrote to 17 businesses in the vehicle rental, online travel, event ticketing and accommodation booking industries to alert them of requirements in the Act regarding drip pricing practices. At the same time, we raised awareness with consumers about the transparency of pricing practices online to help them to make informed purchases.

The ACCC continues to monitor businesses' compliance with their ACL obligations. During 2014–15 the ACCC actively monitored the market behaviour of businesses using drip pricing strategies to assess the market's response to the ACCC's assessment of risks. We assessed a number of complaints and engaged with industry to ensure compliance.

In June 2014 the ACCC instituted proceedings against **Virgin Australia Airlines Pty Ltd** and **Jetstar Airways Pty Ltd**. The ACCC alleged that Virgin and Jetstar engaged in misleading or deceptive conduct and made false or misleading representations about particular airfares. The ACCC alleges that Virgin and Jetstar made representations on their website and mobile sites that certain domestic airfares were available for purchase at specific prices, when in fact those prices were only available if payment was made using particular methods. Virgin and Jetstar are also alleged to have made misrepresentations about price through a promotional email that was sent to subscribers of 'V-mail' and 'Jetmail' respectively. The cases are ongoing and judgment has been reserved.

Online group buying

Online 'daily deals' and group buying websites are channels for consumers to buy goods and services at discount prices. Online group buying sites typically negotiate these deals with businesses and then market the deals to their members and the public through various means, including social media.

The ACCC and other ACL regulators have received a significant number of complaints since the group buying industry emerged in Australia in 2010. We have worked closely with other ACL regulators to address the issues and improve practices in the sector to reduce consumer and business detriment.

Consumer complaints that the ACCC considered included cases where consumers were denied refunds because the voucher was sold 'subject to availability'; possible misleading representations about the product or service the subject of the actual deal; unreasonable delays in receiving goods; and difficulty in redeeming vouchers.

As part of its focus in this area, the ACCC has taken action against significant players in the industry.

The ACCC action in this area reinforces that all businesses are subject to the Act and ACL:

- Businesses that are selling to consumers online have the same obligations under the ACL as all other businesses. Consumer guarantees, including refund rights, apply when consumers purchase online.
- Online businesses must ensure that they do not mislead consumers and that the price and any restrictions on a deal that is being offered are clearly and accurately stated.

In April 2015, the Federal Court ordered **Spreets Pty Ltd** to pay total penalties of \$600 000 for making false or misleading representations to consumers about deals that it offered on its online group buying website, in contravention of the ACL. The ACCC alleged that, in 2011 and 2012, Spreets engaged in misleading and deceptive conduct and made false or misleading representations about the price of certain deals, consumers' ability to redeem vouchers and consumers' refund rights under the ACL.

Parallel imports

Parallel imports, which are also known as direct or grey imports, may benefit consumers by offering products at lower prices and providing access to items which otherwise may not be available in Australia. However there are a range of issues consumers need to be aware of in deciding to purchase a parallel import, such as practical difficulties with warranties if there is an issue, and legal difficulties if the seller is based overseas.

Similarly businesses need to be aware of their obligations when selling parallel imported products. In May 2015, the ACCC published website information for both consumers and businesses about parallel imports. The guidance gives consumers and businesses important tips and the basic information they need to understand when they are buying and selling parallel imports.

Highly concentrated sectors

As a result of history and geography, Australia has many highly concentrated market sectors. The concentration in these sectors potentially raises consumer protection issues and therefore requires close scrutiny. As this is a priority area, the ACCC will continue to focus on consumer issues in highly concentrated markets—in particular, the supermarket and fuel sectors.

In May 2014 the ACCC commenced proceedings against **Coles Supermarkets Australia Pty Ltd** and **Grocery Holdings Pty Ltd** (referred to as Coles) in respect of the Coles Active Retail Collaboration program. The ACCC alleged that Coles had engaged in unconscionable conduct towards 200 of its smaller suppliers, in breach of the ACL. In October 2014 the ACCC instituted further proceedings against Coles arising out of the same investigation relating to the May 2014 court proceedings. In the October 2014 proceedings, the ACCC alleged that in 2011 Coles, outside of its trading terms with the suppliers concerned, pursued agreements to pay Coles for 'profit gaps' on a supplier's goods, and imposed fines or penalties on suppliers for short or late deliveries.

In December 2014 Coles was ordered to pay pecuniary penalties of \$10 million and costs for unconscionable conduct. Coles engaged the Hon. Jeff Kennett AC as an independent arbiter, who instructed Coles to refund over \$12 million to suppliers. Details can be found in the case study on page 82.

Scams

As the national consumer protection agency, we play an important role in helping Australians protect themselves from scams, including through education. Our reports show that consumers and businesses continue to suffer financial losses to scams. In 2015, ACCC priorities include scams that rely on building deceptive relationships that cause severe and widespread consumer or small business detriment. We work across several fronts to prevent and minimise the harm scams cause, including through ongoing education, communication and media stories, disruption work and of course enforcement action where possible.

Education and advice

Consumer fraud can have a significant impact not only on individuals but also on businesses. As chair of the Australasian Consumer Fraud Taskforce, we work closely with the public, private and community sectors to educate the public and disrupt scams. This coordinated response is

the most effective approach to minimising consumer harm. The task force plays an important role in the relationship scam disruption project that the ACCC is coordinating.

One of the key task force initiatives is its annual National Consumer Fraud Week campaign. In 2015, the task force urged Australians to 'Get smarter with your data' and provided advice on how to take steps to protect your online identity from scammers.

Over 100 partners helped to raise community awareness about relationship scams.

Scammers continued to favour phone delivery, with over half of the scams delivered using a telephone call or text message. However, scams delivered online caused the greatest financial harm—nearly \$42 million has been reported as lost to scams online.

As reported in the most recent *Targeting scams: Report of the ACCC on scams activity 2014*, the ACCC received 91 637 scam-related contacts from consumers and small businesses in 2014, with reported financial losses totalling \$81 832 793. However, scams and associated losses are likely to be under-reported to the ACCC, because scam victims may report to other authorities, may be unwilling to report their experience or may not even realise they have been scammed.

The ACCC uses a range of media and communications channels to raise community awareness. The ACCC's Scamwatch website (www.scamwatch.gov.au) received over 1.3 million unique visitors in 2014. We also distribute the Scamwatch radar email alert on emerging scams to over 39 500 subscribers as part of our free alert service. For those consumers who do not have internet access, we operate the Scamwatch hotline (1300 795 995), which gives information and advice about scam-related issues. In 2014–15, the ACCC dealt with nearly 46 701 contacts through the hotline.

We also use our Scamwatch Twitter profile (@Scamwatch_gov) to provide information to Australian consumers and businesses about scams that are targeting them. The ACCC also produces the *Little black book of scams*, which continued to be our most popular publication in 2014–15 and is considered international best practice. Throughout the year the ACCC also took part in hundreds of media interviews to raise consumer awareness of scams.

Disruption

In August 2014 the ACCC commenced its Scam Disruption Project, which aims to stop potential scam victims from sending more money to scammers. The project uses financial intelligence to identify Australians who are sending funds to West African nations and advises them they may have been targeted by a scam.

Total reported losses as a result of dating and romance scams were almost \$28 million last year. So far, the ACCC has sent 2669 letters to potential scam victims in New South Wales and the ACT.

Approximately 71 per cent of those who received the ACCC's warning letters stopped sending money overseas for at least a six-week period. Just over 75 per cent of the people who contacted the ACCC in response to our letters were scam victims. The letters potentially saved them from further losses. Collectively, these people had lost \$2.6 million and an average of about \$28 000 each.

Unfair contract terms

Unfair contract terms create an imbalance between consumers' rights and traders' obligations. Standard form consumer contracts, which are often adopted industry-wide, have a direct impact on all consumers who acquire goods or services in that industry.

The ACL contains provisions that protect consumers from unfair terms in standard form consumer contracts. The government is amending the ACL to extend the unfair contract provisions to small businesses. Once these amendments become law, there will be a

transition period of six months before the protections come into effect, which is anticipated to be in early 2016.

In the same way that an unfair term contained in a standard form consumer contract can be declared void, a court will be able to declare void an unfair term of a standard form small business contract. This will reduce the incentive to include and enforce unfair terms in small business contracts and will provide a remedy for small businesses when those terms are included in a contract.

The draft amending legislation indicates that a contract will be deemed a small business contract if, at the time it is agreed to, at least one party employs fewer than 20 persons and where the value of the contract does not exceed either \$100 000 or \$250 000 for contracts of more than one year in duration.

The ACCC is in the process of planning its educational activities and developing guidance materials to ensure that businesses are aware of their rights and obligations when the new law comes into effect.

Court cases

In November 2014 the ACCC instituted proceedings against **CLA Trading Pty Ltd**, trading as **Europcar Australia**. The ACCC alleged that a number of terms in Europcar's vehicle rental contracts are unfair. Also, it alleges that Europcar has engaged in misleading or deceptive conduct and made false or misleading representations on the liability cover that is provided to car hire customers.

In Australia, Europcar has around 125 offices and a rental fleet that includes passenger vehicles, trucks and specialty vehicles. Europcar is part of a global Europcar vehicle rental business that has around 13 000 rental stations in approximately 150 countries. The case is ongoing.

In December 2014 the ACCC instituted proceedings against **Chrisco Hampers Australia Ltd**. The ACCC alleged that Chrisco had contravened the ACL by using an unfair contract term, making false or misleading representations and imposing lay-by termination charges that exceed Chrisco's reasonable costs. Details of the case appear under 'Consumer protection for Indigenous and vulnerable consumers' on page 77. The case is ongoing.

In our action against **Advanced Medical Institute Pty Ltd (ACN 117372 915)**, **AMI Australia Holdings Pty Ltd (ACN 095238645)**, **NRM Corporation Pty Ltd** and **NRM Trading Pty Ltd**, the court determined that both NRM Corporation and NRM Trading had breached the ACL by entering into contracts that contained unfair contract terms. Details appear under 'Unconscionable conduct' on page 80.

Non-court matters

In December 2014 **LivingSocial Pty Ltd**, an online group buying site, provided a court enforceable undertaking as a result of ACCC concerns about a term in LivingSocial's consumer contracts and representations made on LivingSocial's website. In the ACCC's view, during 2011 and 2012 LivingSocial engaged in misleading and deceptive conduct and made false or misleading representations on its website about consumers' refund rights.

In addition, the ACCC considers that from 2011 LivingSocial made false or misleading representations on its website about the price of certain deals. Further, from at least January 2012 to November 2014, LivingSocial's terms and conditions contained a term that permitted LivingSocial to make substantive changes to its terms and conditions without notifying its consumers or voucher purchasers. In the ACCC's view, this was an unfair contract term.

Credence claims and truth in advertising

A 'credence claim' is a claim that a business makes about the qualities of a particular product that a consumer is unable to verify at the time of purchase and must take on faith.

Credence claims are generally used to appeal to consumer-held values such as health, ethics and sustainability. They are often used to market a business product as superior to other comparable products.

These claims can legitimately be made as long as they are not misleading and can be substantiated. But honest businesses selling premium products need to be protected from unscrupulous competitors that make false claims, and consumers need to be protected from paying premium prices for non-existent attributes.

Court cases

In April 2015 the Federal Court ordered **Coles Supermarkets Australia Pty Ltd** to pay penalties of \$2.5 million for making false or misleading representations and engaging in misleading conduct in relation to the promotion of its par-baked bread products. The products were promoted as 'Baked Today, Sold Today' and in some cases 'Freshly Baked In-Store'. However, they were in fact partially baked and frozen offsite by a supplier and then transported and 'finished' at in-store bakeries within Coles supermarkets. Details of the case can be found in the case study on page 74.

In March 2015 the ACCC instituted proceedings against **Reckitt Benckiser (Australia) Pty Ltd** alleging that it engaged in misleading or deceptive conduct and made false or misleading representations in connection with the sale and promotion of its Nurofen specific pain products. The case is ongoing.

In October 2014 the Federal Court ordered **Reebok Australia Pty Ltd** to pay a pecuniary penalty of \$350 000 for making false and misleading representations about the benefits of Reebok EasyTone shoes. The court found that Reebok had made representations on the shoe boxes, on swing tags on shoes, in information cards and booklets and in in-store promotional material that, if a person walked in a pair of EasyTone shoes, they would increase the strength and muscle tone of their calves, thighs and buttocks more than if they were wearing traditional walking shoes. The court found that these claims were false and misleading and consequently contravened the ACL.

In December 2013 the ACCC filed separate proceedings against egg producers in Western Australia and New South Wales. The ACCC alleged that the producers' use of 'free range' claims for eggs was misleading. The ACCC alleged that, by using words and images on their egg cartons and websites, **Snowdale Holdings Pty Ltd** in Western Australia and **Pirovic Enterprises Pty Ltd** in New South Wales had made false, misleading or deceptive representations. In September 2014 the Federal Court declared by consent that Pirovic engaged in misleading conduct and made misleading representations in its labelling and promotion of eggs as 'free range'. The court ordered that Pirovic pay a pecuniary penalty of \$300 000 and contribute to the ACCC's costs. Details are outlined in the case study on page 72. The case against Snowdale is ongoing.

In December 2014 the ACCC instituted proceedings against **Derodi Pty Ltd** and **Holland Farms Pty Ltd**. The ACCC alleged that their use of the term 'free range' in describing their egg brands was false and misleading. Derodi and Holland have a business known as **Free Range Egg Farms**, which supplies eggs under the label Ecoeggs nationally. In New South Wales it supplies eggs under the labels Port Stephens and Field Fresh Free Range Eggs. The ACCC alleges that Derodi and Holland made false, misleading or deceptive representations on egg cartons, websites, a Facebook page and a Twitter account to the effect that their eggs, which were supplied and labelled as 'free range', were produced by hens that were farmed in conditions where the hens were able to move about freely on an open range on every ordinary day. The case is ongoing.

Case study

Federal Court finds misleading representation in promotion of eggs as ‘free range’

Credence claims—for example, claims that eggs are ‘free range’—are a powerful tool that businesses can use to distinguish their products. However, if those claims are false or misleading, consumers pay an unwarranted premium to purchase their products.

This may damage the market and is unfair to competitors. In 2014–15 we had an ongoing investigation into free range claims made by a number of egg producers. The ACCC has a role to ensure that words and images used in the labelling of products accurately reflect the particular farming or manufacturing practices of the producer and the expectations of a consumer.

In September 2014 the Federal Court declared by consent that **Pirovic Enterprises Pty Ltd**, a supplier of eggs, had engaged in misleading conduct and made misleading representations by labelling and promoting its eggs as ‘free range’.

The ACCC initiated an investigation of Pirovic’s conduct in response to community concerns about ‘free range’ claims. In December 2013 we brought proceedings against Pirovic, alleging that its use of words and images on its cartons and websites amounted to false, misleading or deceptive conduct and was therefore in contravention of ss. 18, 29(1) (a) and 33 of the ACL.

From January 2012 until January 2014, Pirovic’s egg cartons used the words ‘free range’ and showed images of hens on open pasture, suggesting that:

- their hens were able to move about freely on an open range every day
- most of their hens moved about freely on an open range on most days.

A number of farming conditions impact on whether hens move freely on an open range each day. We submitted that these include:

- the internal stocking density of sheds
- the conditions of the internal areas that the hens are housed in
- the number, size and location of any openings to an outdoor area
- when and how regularly the openings are opened
- the size and condition of the outdoor area and whether it contains shaded areas, adequate food and water and different vegetation and ground conditions
- the stocking density of the outdoor area
- whether the hens have been trained or conditioned to remain indoors.

The court found that most of Pirovic’s hens did not move about on an open range because of the operation’s stocking densities, flock sizes in barns and flock access to outdoor areas.

The court ordered Pirovic to pay a pecuniary penalty of \$300 000 and contribute to the ACCC’s costs.

This case forms part of a broader set of investigations by the ACCC of free range claims that a number of egg producers in Australia are making. The decision provides very clear guidance for suppliers that claim that their eggs are free range. It shows that their claims must be backed by farming conditions and practices that allow hens to move about on an open range each day. Importantly, the decision supports the view that producers should look at whether their practices and experiences of what happens on farm support a consumer’s expectation of the labels and descriptions used.

In December 2014 the ACCC instituted civil proceedings against **RL Adams Pty Ltd** trading as **Darling Downs Fresh Eggs** for alleged contraventions of the ACL. The ACCC alleges that, between 31 December 2013 and at least 6 October 2014, Darling Downs made false or misleading or deceptive representations by using words and images on its website and packaging that suggested that the eggs were produced by hens on a free range. In fact, the hens never had access to the outside of the barns. The case is ongoing.

Undertakings and infringement notices

In August 2014 **Maggie Beer Products Pty Ltd** gave a court enforceable undertaking acknowledging that its conduct was likely to have been misleading and in breach of the ACL. The undertaking concerns place of origin representations on the labelling of Maggie Beer products, including Maggie Beer branded ice-cream (all flavours), aged red wine vinegar, extra virgin olive oil, and rosemary and verjuice biscuits. The use of the Maggie Beer logo, the words 'Maggie Beer A Barossa Food Tradition' and the words 'Maggie Beer Products, 2 Keith Street Tanunda South Australia 5352' gave the overall impression that those products were made in Tanunda, the Barossa Valley and/or South Australia when, in fact, they were manufactured in states other than South Australia. Maggie Beer Products also made representations directly to Woolworths Ltd in email correspondence, and to the public at a 'Local Fair' held at a Woolworths store, that those products were made in South Australia or were otherwise 'local' products, when, in fact, they were manufactured in states other than South Australia.

In December 2014 **Hume Import & Export (Australia) Pty Ltd** trading as **Bera Foods** paid \$10 200 after the ACCC issued an infringement notice to Bera Foods. The ACCC had reasonable grounds to believe that Bera Foods had made a false or misleading representation about the composition of Bera Foods' 'Hi Honey' product, in contravention of the ACL.

The ACCC considered that, by using the word 'Honey' and including a map of Australia on the 'Hi Honey' label, Bera Foods had suggested that the product was Australian honey, when in fact the product was predominantly composed of plant sugars and was produced in Turkey.

In December 2014 **Telstra Corporation Ltd** paid \$102 000 after the ACCC issued an infringement notice to Telstra. The ACCC issued the notice because it had reasonable grounds to believe that Telstra had made a false or misleading representation about the price of goods or services in an advertisement for an iPhone 6, in contravention of the ACL.

The advertisement for Telstra's iPhone 6 and phone plan bundle prominently displayed the plan cost of \$70 per month. In fact, consumers were also required to pay an additional \$11 per month for the iPhone 6. The additional payment and the total monthly cost of \$81 were only disclosed in fine print in the advertisement.

In March 2015 **The Independent Liquor Group Distribution Co-operative Ltd** paid \$10 200 after the ACCC issued an infringement notice to the company. The ACCC alleged that the labelling and packaging of three beer labels that Independent Liquor owned and wholesaled represented that the 'Aussie Beer' product was made in Australia when in fact it was made in China.

In May 2015 **Supabarn Supermarkets Pty Ltd** and **The Real Juice Company Pty Ltd** each paid \$20 400 after the ACCC issued them with infringement notices concerning representations made about two juice products from the private label range of juices manufactured by The Real Juice Company and sold by Supabarn.

Non-compliance with our compulsory information-gathering power s. 155 powers (s. 155)

The ACCC can issue a notice to answer questions, produce documents or attend an oral examination under s. 155 of the Act. Refusal or failure to comply with the notice by the due

Case study

Coles 'freshly baked' claims found to be misleading

In April 2015, in proceedings brought by the ACCC, the Federal Court ordered **Coles Supermarkets Australia Pty Ltd** to pay penalties of \$2.5 million for making false or misleading representations and engaging in misleading conduct in promoting its par-baked bread products.

The products were promoted as 'Baked Today, Sold Today' and in some cases 'Freshly Baked In-Store', when they were in fact partially baked and frozen offsite by a supplier, transported and 'finished' at in-store bakeries within Coles supermarkets.

Coles used the phrases in a nationwide campaign, which was promoted in Coles supermarkets. Also, Coles used the phrase 'Baked Today, Sold Today' extensively on packaging for par-baked products over a three-year period. During this time, Coles sold a significant number of par-baked products and generated substantial revenue from these sales.

The ACCC took this action because it was concerned that Coles's 'Baked Today, Sold Today' and 'Freshly Baked In-Store' claims about its par-baked bread were likely to mislead consumers. The conduct also placed independently owned and franchised bakeries that entirely bake bread from scratch each day at a competitive disadvantage.

The court noted that the evidence showed that Coles had engaged in the campaign with the clear purpose of improving its market share against that of its competitors and that it did this by engaging in the conduct that, in fact, breached the ACL.

The Federal Court held that corporations that market goods and services to consumers have an obligation to ensure that they do not mislead or deceive the public about the goods and services they are marketing. The fact that some people may not be misled is not the point. Businesses in the marketplace should recognise that consumers are entitled to reliable, truthful and accurate information.

In imposing this penalty, the Chief Justice said, 'the courts should be astute and careful not to permit consumers to be misled on available meanings or connotations of phrases deliberately chosen to sell products on the basis that everyone takes advertising with a pinch of salt'.

In September 2014, the court declared that, by using the phrase 'Baked Today, Sold Today', 'Freshly Baked In-Store', 'Freshly Baked' and 'Baked Fresh', Coles had made representations that were in contravention of the ACL.

The court ordered that Coles:

- be restrained for a period of three years from making any representation on packaging, signage, website or other promotional material that bread products are entirely baked on the day of sale or are baked from fresh dough when this is not the case
- place a corrective notice on its website and in its in-store bakeries.

date, or providing false or misleading evidence is a criminal offence which may attract fines under the Act and/or 12 months imprisonment for individuals. If an individual or corporation refuses or fails to comply with a notice or provides false or misleading evidence, the ACCC may refer this non-compliance to the Commonwealth Director of Public Prosecutions.

In April 2014, the Federal Court found that **SensaSlim Australia Pty Ltd** (in liquidation) had engaged in misleading or deceptive conduct by failing to disclose **Peter Foster's** involvement in the SensaSlim franchise system in its franchise disclosure document. The court also found that SensaSlim had engaged in misleading or deceptive conduct by making false representations about the role of SensaSlim's officers, namely **Peter O'Brien** and **Michael Boyle**; the 'worldwide clinical trial' of the SensaSlim Solution; and the earning potential of SensaSlim franchises. Foster, O'Brien and Boyle were found to be knowingly concerned in and party to some of SensaSlim's contraventions. Judgment on relief has been reserved in the matter.

In September 2014 we began criminal proceedings in the Federal Court in Brisbane against Michael Anthony Boyle for allegedly providing false or misleading evidence in the course of the investigation into SensaSlim Australia Pty Ltd.

In June 2011, Boyle attended a compulsory examination issued under s. 155(1)(c) of the Act, in the course of the SensaSlim investigation. The ACCC has alleged that Boyle knowingly gave false or misleading evidence during that examination about his knowledge of Foster's involvement in SensaSlim. The case against Boyle is ongoing.

Carbon pricing

Carbon tax repeal

On 17 July 2014, the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014* (the Carbon Tax Repeal Act) was passed by parliament.

Under the Carbon Tax Repeal Act, the ACCC was given new enforcement powers and an enhanced monitoring role under amendments to the *Competition and Consumer Act 2010*. The new role and powers applied to the carbon tax repeal transition period, which ran until 30 June 2015.

In addition to its existing powers, the ACCC was given extra powers to:

- monitor prices of regulated goods and liable entities (price monitoring)
- take action against businesses supplying regulated goods that attempt to exploit other businesses and consumers by failing to pass through all of their cost savings from the carbon tax repeal (carbon tax price reduction obligation)
- take action against businesses that made false or misleading claims about the effect of the carbon tax repeal or carbon tax scheme on the price for the supply of goods or services (false or misleading representations).

The ACCC was required to issue carbon tax removal substantiation notices to electricity retailers and producers, natural gas retailers as well as bulk synthetic greenhouse gas (SGG) importers that sell to customers. Those businesses were also required to provide a carbon tax removal substantiation statement to the ACCC of their estimated cost savings from repeal. Electricity retailers and producers and retailers and natural gas retailers that sell to customers were also required to provide a statement for customers.

In performing its role, the ACCC:

- sent 244 carbon tax repeal substantiation notices and received 244 responses
- received 283 carbon tax repeal substantiation statements, including from 39 additional entities from which it had not anticipated receiving one
- issued seven s. 60H information gathering notices

- issued four price monitoring reports. The sixth and final report is to be issued in July 2015.

The ACCC was able to report a high level of compliance under the carbon tax price reduction obligation provisions and in relation to its information-gathering powers.

Complaints and inquiries (contacts) to the ACCC in relation to the carbon tax repeal totalled 693. During the period, contacts peaked at approximately 175 in September 2014 and then continued to decline.

Court cases

Under an earlier role assigned to the ACCC, we were directed to prioritise investigations into potentially misleading representations about the introduction of the carbon tax. On 30 April 2014 the ACCC instituted proceedings against **Actrol Parts Pty Ltd**, alleging that it had engaged in false, misleading or deceptive conduct by representing that price increases effective 1 July 2012 were in part due to the introduction of the carbon tax scheme. On 2 April 2015 the Federal Court of Australia found that Actrol had engaged in conduct that was misleading or deceptive, or likely to mislead or deceive, and made false or misleading representations in contravention of ss. 18(1) and 29(1)(i) of the Australian Consumer Law.

These representations were made in letters to its customers and on its website, by attributing significant price increases of certain SGGs to the implementation of the carbon tax, changes in input costs and general market conditions. The court found that Actrol had in fact increased its prices to increase its margins and earnings to take into account increased supply costs of these products. The court ordered Actrol pay a pecuniary penalty of \$520 000 in respect of its contraventions of s. 29(1)(i) of the ACL in addition to other orders.

Consumer guarantees

Australian consumers have a set of rights, called consumer guarantees, when they buy goods or services. Under the ACL, products and services come with automatic guarantees on repair, replacement and refund. Questions and complaints about guarantees and warranties are one of the most common reasons that consumers contact the ACCC and other ACL regulators.

Court cases

In 2014–15 we are awaiting judgment against one franchisee, **Bunavit Pty Ltd** (trading as **Harvey Norman AV/IT Superstore Bundall**), the last of 10 Harvey Norman franchisees we took action against for alleging false or misleading claims regarding consumer guarantee rights. During 2013–14, the Federal Court handed down judgment on nine Harvey Norman franchises relating to false or misleading claims regarding consumer guarantee rights. The court ordered declarations and injunctions against the Harvey Norman franchisees and pecuniary penalties totalling \$234 000.

In January 2015 the Federal Court declared by consent that both **Fisher & Paykel Customer Services Pty Ltd** and **Domestic & General Services Pty Ltd** made a false or misleading representation when offering an extended warranty to consumers. The court imposed a pecuniary penalty of \$200 000 on each business. The proceedings also involved alternative allegations under the consumer protection provisions of the *Australian Securities and Investments Commission Act 2001* (the ASIC Act). Details are provided in the case study on page 78.

On 28 August 2014 the ACCC instituted proceedings in the Federal Court against **Valve Corporation**, alleging that it made false or misleading representations about the application of the consumer guarantees under the ACL. Details of the case are outlined on page 65.

Consumer protection for Indigenous and vulnerable consumers

We seek to ensure that Indigenous Australians enjoy the same rights under the ACL as non-Indigenous Australians.

We aim to assist Indigenous consumers by:

- raising awareness of their rights
- improving access to our services
- increasing our capacity to detect unscrupulous traders operating in remote communities
- vigorously enforcing the law.

We continue to forge partnerships with remote communities and key stakeholders to improve consumer literacy, build the confidence of Indigenous consumers to complain about consumer law breaches and detect and stop illegal conduct at an early stage.

In 2015 we expanded our consumer protection activities to issues affecting older consumers and consumers who are newly arrived in Australia. We have taken action where older consumers have been targeted by unscrupulous salespeople. By concentrating our efforts, we aim to give older consumers and their carers some extra confidence that their rights are being protected.

Consumers who have recently arrived in Australia also face a raft of issues and are vulnerable to sharp operators. These consumers are often from culturally and linguistically diverse backgrounds and their understanding of consumer rights under Australian law can be limited.

Court cases

On 30 June 2014 the ACCC instituted proceedings against **Adata Pty Ltd** and **Adata (Vic) Pty Ltd** (together, Adata). The ACCC alleges that Adata has breached the unsolicited consumer agreement provisions of the ACL. Adata is a registered tax agent operating a business which prepares income tax returns and lodges them with the Australian Taxation Office.

The allegations concern Adata's supply of end-of-year individual tax return services to Indigenous consumers who receive Centrelink payments in remote communities in the Northern Territory and Western Australia.

The ACCC also alleges that Adata's sole director, **Wayne Wright**, was knowingly concerned in, or a party to, the conduct of Adata. The ACCC alleges that Adata breached the unsolicited consumer agreement provisions of the ACL by:

- receiving payments from consumers within the 10-business-day cooling-off period
- failing to inform consumers of their termination rights
- failing to provide consumers with an agreement document
- failing to use an agreement document that complies with the ACL
- calling on consumers on a Sunday.

The ACCC has sought declarations, injunctions, refunds for affected consumers and costs. The case is ongoing.

In December 2014 the ACCC instituted proceedings against **Chrisco Hampers Australia Ltd**. The ACCC alleged that Chrisco had contravened the ACL by using an alleged unfair contract term, making false or misleading representations and making lay-by termination charges that exceed Chrisco's reasonable costs.

Chrisco offers food and drink hampers and a variety of other goods to consumers, including homewares and gifts by way of lay-by agreement, throughout most areas of Australia, including remote Indigenous communities.

Case study

Misleading representations about consumer rights and extended warranties

Consumers under the Australian Consumer Law may have a right to a repair, replacement or refund beyond the time period covered by the manufacturer's warranty. While some extended warranties may offer protection over and above that provided by the ACL, they do not replace the underlying consumer guarantees.

On 12 November 2013 the ACCC instituted proceedings against **Fisher & Paykel Customer Services Pty Ltd** and **Domestic & General Services Pty Ltd** for misleading representations about the need for a consumer to purchase an extended warranty.

In December 2014 the Federal Court made orders by consent that Fisher & Paykel and Domestic & General pay penalties of \$200 000 each, make declarations and implement compliance programs. Fisher & Paykel sent consumers an invitation letter to purchase an extended warranty. We alleged that the letters contained a number of misleading representations about the need for a consumer to purchase an extended warranty.

The ACCC alleged that Fisher & Paykel and Domestic & General, as primary contraveners, contravened ss. 18, 29(1)(l), 29(1)(m) and 29(1)(n) of the ACL or the equivalent sections of the ASIC Act (ss. 12DA and 12DB(1)(h)-(j)) for the potential that an extended warranty may be considered a financial product under the ASIC Act.

The Australian Securities and Investments Commission provided a delegation to the CEO of the ACCC in order for proceedings to be brought under the ASIC Act.

In December 2014 the court made the following orders by consent:

- declarations in the terms sought by the parties
- payment by each respondent of a pecuniary penalty of \$200 000
- contribution to the ACCC's costs of \$15 000 by each respondent
- each respondent to update their compliance programs to ensure they meet the requirements set out in the consent orders filed by the parties.

The ACCC continues to work with state and territory consumer protection agencies to address areas of concern in relation to extended warranties.

The allegations include that Chrisco made false or misleading representations to consumers that they could not cancel their lay-by agreement after making their final payment, when the ACL provides that consumers have the right to terminate a lay-by agreement at any time before delivery of the goods.

To purchase Chrisco goods, consumers make interest-free instalment (lay-by) payments on goods and the goods are delivered after the final lay-by payment is made. This usually coincides with the Christmas period. Chrisco does not operate a physical retail outlet but does have administration, call centre and warehousing facilities in Australia. Chrisco promotes its goods using television, printed catalogues, a website, print advertising and consumer word of mouth.

The ACCC was alerted to the alleged conduct of Chrisco by the Indigenous Consumer Assistance Network during an Indigenous outreach visit to Palm Island (Bwgcolman) as part of the ACCC's broader Indigenous consumer protection and outreach work. The case is ongoing.

Infringement notices

In November 2014 **InvoCare Ltd** paid \$102 000 after the ACCC issued an infringement notice for allegedly making a false or misleading representation concerning its standard contract. InvoCare Ltd and its subsidiary, **InvoCare Australia Pty Ltd** (together InvoCare) have also provided a court enforceable undertaking to the ACCC.

InvoCare is the largest operator of funeral homes, cemeteries and crematoria in Australia, operating 14 cemeteries and crematoria nationally.

In January 2011, InvoCare changed its standard contract to require consumers to also purchase memorials from InvoCare for use at burial sites. The ACCC had received complaints that InvoCare made false or misleading representations to some consumers who had pre-purchased burial sites before January 2011 that they were contractually required to purchase memorial plaques from InvoCare when this was not the case.

Of particular concern was that these alleged misrepresentations were directed at consumers in circumstances where they were particularly vulnerable.

Health and medical sectors

New in 2015 is to prioritise competition and consumer issues in the health and medical sectors. We have begun engaging with industry and businesses on issues, and researching our complaints and other data to look for areas where we may best direct our efforts. We already had a number of matters in the sector ongoing from previous years.

Court matters

In September 2014 the Federal Court ordered penalties totalling \$250 000 against **Safe Breast Imaging Pty Ltd** for making false representations about its breast imaging services, in contravention of the ACL. **Joanne Firth**, the sole company director, was ordered to pay a penalty of \$50 000 for her involvement in the contraventions. She was also disqualified from managing corporations for four years.

In October 2014 the Federal Court ordered **Breast Check Pty Ltd** (now called **PO Health Professionals Pty Ltd**) to pay a penalty of \$75 000 for making false or misleading representations about its breast imaging services, in contravention of the ACL. The former director of Breast Check, **Alexandra Boyd**, was ordered to pay penalties of \$25 000 for being knowingly concerned or involved in Breast Check's contraventions.

In December 2014 the Federal Court found that **Homeopathy Plus! Pty Ltd** and its director, **Frances Sheffield**, engaged in misleading conduct and made false or misleading representations on the effectiveness of the whooping cough vaccine and homeopathic

remedies as an alternative, in breach of the ACL. We are awaiting final outcome as judgment has been reserved.

Infringement notices

In May 2015 **NIB Health Funds Ltd** paid \$10 200 after the ACCC issued it with an infringement notice concerning advertising about the waiver of the waiting period for 'Extras' cover. The ACCC had reasonable grounds to believe that NIB had contravened the ACL by making a false or misleading representation that usually or normally there was a two-month waiting period for the Extras option. From December 2012 to November 2014, in promoting its combined Hospital and Extras cover, NIB offered to waive the waiting period on its Extras option. It claimed that the Extras option 'usually' or 'normally' required the two-month waiting period when in fact NIB had made this benefit available to all customers immediately for 23 months from December 2012.

Other consumer protection outcomes

Unconscionable conduct

The ACL gives the ACCC a range of remedies and powers to effectively respond to breaches of fair trading and consumer protection laws. The ACL prohibits businesses from:

- engaging in conduct that misleads or deceives, or is likely to do so
- making false or misleading claims about goods or services—for example, about price, value or quality
- acting unconscionably—that is, so harshly that it is against good conscience—in their dealings with other businesses or their customers.

Court cases

In August 2013, the Full Federal Court allowed the ACCC's appeal and declared that **Lux Distributors Pty Ltd** engaged in unconscionable conduct in relation to the sale of vacuum cleaners to three elderly consumers in their homes. The matter was finalised in March 2014 pending a decision on penalty. Lux's application for leave to appeal to the High Court has been dismissed and remitted back to Federal Court for a hearing on penalties. The matter is ongoing.

In April 2015 the Federal Court declared that **Advanced Medical Institute Pty Ltd** (ACN 117372 915), **AMI Australia Holdings Pty Ltd** (ACN 095238645), **NRM Corporation Pty Ltd** and **NRM Trading Pty Ltd** had engaged in unconscionable conduct in promoting and supplying medical services and medications for men suffering from sexual dysfunction. The court also declared that Jacov Vaisman aided and abetted and was knowingly concerned in the conduct of AMI and NRM. The court made orders requiring NRM to compensate a number of the patients, permanently restraining NRM from making agreements unless certain conditions were met, restraining Vaisman from continuing in his main role in the business of NRM for seven years and publishing corrective advertising.

False, misleading or deceptive conduct

Court cases

In August 2014 the ACCC instituted proceedings against **Lyoness International AG**, **Lyoness Asia Limited**, **Lyoness UK Limited** and **Lyoness Australia Pty Limited** (together 'Lyoness') for operating a pyramid selling scheme and engaging in referral selling. Although Lyoness has been investigated by regulators for conduct in other countries, this is the first court action against Lyoness that alleges that the Lyoness Loyalty Program constitutes a pyramid scheme.

In March 2015, following a coordinated investigation with NSW Fair Trading, the ACCC instituted proceedings against **We Buy Houses Pty Ltd** and **Rick Otton** for alleged contraventions of the ACL. It alleged that the company made several representations to consumers that, by attending seminars and boot camps, consumers will be taught strategies to enable them to, for example:

- buy a house for \$1
- buy a house using little or none of their own money
- build property portfolios without investing their own money and without new bank loans.

The case is ongoing.

In March 2015 the Federal Court declared that **Safety Compliance Pty Ltd** (in liquidation) contravened the ACL and the *Trade Practices Act 1974* by making false or misleading representations and engaging in misleading or deceptive conduct towards small businesses in connection with the supply of safety wall charts and first aid kits. A hearing in relation to relief, including penalties and other orders, is scheduled for later in 2015.

Administrative resolutions

During 2014–15 the ACCC negotiated three administrative resolutions. In February 2015 we investigated statements made by **Kia Motors Australia Pty Ltd** on its website and in other promotional material which represented to consumers that its scheduled service prices for Kia vehicles were capped at a maximum price. In response to the ACCC's concerns that Kia agreed to amend its terms and conditions, advise affected consumers, review internal systems and implement a consumer law compliance program.

In April 2015, the ACCC negotiated two administrative resolutions. The first resolution involved **Samsung Electronics Australia Pty Ltd**. In this matter we investigated allegations of false or misleading representations to consumers of Samsung branded products about their ACL rights. Samsung undertook a number of actions to proactively address the ACCC concerns.

The second resolution involved **AirAsia X Berhad**. We undertook an investigation of AirAsia X after a significant number of consumer complaints were made to the ACCC and other state and territory consumer affairs agencies after AirAsia X were slow in providing refunds for cancelled flights and initially did not cover consumers' out-of-pocket expenses incurred as a result of cancelled flights. AirAsia X negotiated for the ACCC to pay out-of-pocket expenses and agreed that future refunds would be processed within 14 days.

Unit Pricing Code

The mandatory Unit Pricing Code requires large grocery retailers and online retailers that sell the minimum range of food items to use unit pricing when selling non-exempt grocery items, such as fruit and vegetables, to consumers. Consumers can then easily compare the prices of products, regardless of their size or brand.

Unit pricing was first introduced in 2009 and supported by extensive media, consumer and business education at the time. Our role now focuses on ongoing education and compliance monitoring, to address instances on non-compliance.

Through education and collaboration, we are helping grocery retailers to understand their rights and responsibilities under the code and promote compliance. In July 2014 the ACCC updated its website consumer guidance material and engaged in various media activities, including television, to improve consumers' understanding of unit pricing and how they could potentially save money by comparing products. We also raised concerns with a small number of retailers about their compliance with the code.

Case study

Coles Active Retail Collaboration program found to be unconscionable

In December 2014 the Federal Court (by consent), made declarations that **Coles Supermarkets Australia Pty Ltd** engaged in unconscionable conduct in 2011 in its dealings with certain suppliers.

The ACCC alleged that Coles had engaged in unconscionable conduct towards 200 of its smaller suppliers in its Active Retail Collaboration program, in contravention of the ACL.

The court ordered by consent that Coles pay pecuniary penalties of \$10 million and enter into an enforceable undertaking.

The ACCC alleged that, in 2011, Coles developed the Active Retail Collaboration program as a strategy to improve its earnings by gaining better trading terms from its suppliers. One of the elements of the strategy involved asking suppliers to pay ongoing rebates for the program.

Coles's target was to obtain \$16 million in rebates from smaller suppliers and ultimately an ongoing rebate in the form of a percentage of the price it paid for the suppliers' grocery products.

The ACCC alleged that Coles engaged in unconscionable conduct in breach of the ACL. The conduct included:

- providing misleading information to suppliers about the savings and value to them from the Active Retail Collaboration program
- using undue influence and unfair tactics against suppliers to obtain payments of the rebate
- taking advantage of its superior bargaining position by, among other things, seeking payments when it had no legitimate basis for seeking them
- requiring the suppliers to agree to the ongoing rebate without giving them sufficient time to assess the value, if any, of the purported benefits of the program.

The ACCC alleged that Coles had required the 200 suppliers to agree to the rebate within a matter of days. If these suppliers declined to agree to pay the rebate, Coles personnel were allegedly instructed to escalate the matter to more senior staff and to threaten commercial consequences if the supplier did not agree.

In December 2014 the court (by consent) made declarations in both of the proceedings instituted by the ACCC. The court ordered Coles to pay combined pecuniary penalties of \$10 million and costs.

Coles also entered a court enforceable undertaking to the ACCC to establish a formal process to provide options for redress for over 200 suppliers referred to in the proceedings. To fulfil this undertaking Coles appointed the Hon. Jeff Kennett AC as independent arbiter. Mr Kennett instructed Coles to refund over \$12 million to suppliers and also allowed suppliers to exit the ARC program without penalty or have their ARC contribution rebates reviewed.

2.2 Increase our effectiveness through partnerships

2014–15 strategy:

Multiply the effectiveness of ACCC's compliance and enforcement initiatives through an active program of stronger and managed partnerships with ACL regulators, small business commissioners and law enforcement agencies.

Measures:

- Outcomes and impact of actions to prevent or address consumer harm or unfair trading.
- Efficiency and effectiveness of actions to promote consumer safety and fair trading and both consumer and small business awareness and assertion of their consumer law rights.

Our work in Australian and international forums

The ACCC hosts and participates in a wide range of consultative committees and forums domestically and internationally to encourage discussion around consumer, competition and regulatory issues relevant to our work.

Australian partnerships

We engage regularly with a range of representative groups and other regulators on issues relating to small business. Our small business partnerships are outlined under 'Support a vibrant small business sector' on page 107.

During 2014–15 we conducted research with our stakeholder groups and small businesses and consumers, to understand more how we can engage with partners and stakeholders better. The research showed our stakeholders hold the ACCC in very high regard and say we collaborate very well. More information is in Part 4 Management and Accountability under 'ACCC Market Research' on page 235.

Australian Consumer Law partnerships

The ACL gives consumer regulators a single set of provisions to respond to fair trading and consumer protection issues. The provisions of the ACL replace the differing powers under previous national, state and territory legislation.

The ACL also allows regulators to collectively work on broader issues and take proactive and timely compliance and enforcement action.

The ACCC continued to work with businesses, industry associations and consumer groups to promote awareness of the ACL. It also engaged with specific stakeholders, including peak industry associations, to promote industry-wide compliance with the requirements in the ACL on consumer guarantees and warranties against defects.

We continued to work closely with the Treasury, the Australian Securities and Investments Commission and state and territory consumer protection agencies on several national projects.

The ACCC again actively supported the COAG Legislative and Governance Forum on Consumer Affairs.

In a joint initiative with the ACL regulators, the ACCC also launched the Shop Smart Online video to help consumers and small business understand their rights and obligations when shopping or selling online.

The ACCC engaged with ACL regulators through various committees of the Council of Australian Governments Legislative and Governance Forum on Consumer Affairs. These included:

- the Education and Information Advisory Committee
- the Compliance and Dispute Resolution Advisory Committee
- the Policy and Research Advisory Committee
- the Product Safety Consultative Committee.

Education and Information Advisory Committee

We are members of the Education and Information Advisory Committee, which comprises Australian, state and territory ACL regulators. The committee focuses on national cooperation and coordination of education and information activities relating to the ACL and consumer issues more generally.

Under the collaborative leadership model for the ACL, the committee is taking advantage of new opportunities to support and promote policy and compliance activities.

To reach diverse audiences, the committee uses a range of media to communicate information on the ACL. Resources are developed collaboratively to minimise duplication. They are distributed nationally to ensure that messages are consistent.

Consumer guidance is an important way in which the ACCC can increase consumer awareness about issues they may face in particular sectors and how to avoid or minimise the risk of detriment.

The ACCC provided support and input on a diverse range of education initiatives, including:

- consumer and business messaging around the January sales refunds and returns
- online dating scams in the lead-up to Valentine's Day
- World Consumer Rights day, as part of the National Consumer Congress
- guidance on 'was/now' pricing and gift cards in the lead-up to Mother's Day.

The ACCC and NSW Fair Trading commenced a joint investigation into various businesses in the education and training provider sector, particularly with VET Fee Help providers. Officers from NSW Fair Trading were embedded into the ACCC's office for the task force. As part of the task force ACCC and Fair Trading officers have interviewed witnesses across Australia and are reviewing evidence as part of the investigation. The investigation is ongoing.

Our concerns include:

- signing vulnerable people up to courses without their knowledge
- offering cash and free tablets as inducements
- targeting low-income people by spruiking outside Centrelink and community centres.

To further support the ACCC's work on addressing problems in the sector, the ACCC also worked with other ACL regulators to produce a range of materials to educate consumers. The ACCC published guidance that, among other things, warned consumers:

- not to sign up 'on the spot' for a training course if they are approached

- not to give out their personal details, such as their tax file number, unless they have checked the course and decided to enrol.

We have also warned consumers not be swayed by offers of 'free items' from training providers if they sign up for a course. This conduct is considered an inducement to enroll consumers into VET FEE-HELP supported courses and was banned from 1 April 2015. Consumers have also been educated and made aware that a VET FEE-HELP loan is a real debt that can impact on their credit rating and they must repay that loan when their income reaches a certain level.

Compliance and Dispute Resolution Advisory Committee

The Compliance and Dispute Resolution Advisory Committee aims to ensure that compliance and dispute resolution across Australia is coordinated, efficient, responsive and, where appropriate, consistent. It is currently chaired by NSW Fair Trading. The committee supports broader and targeted approaches to consumer law enforcement and, with the Fair Trading Operations Group, day-to-day liaison on enforcement issues.

Policy and Research Advisory Committee

The Policy and Research Advisory Committee aims to ensure that consumer protection research, policy development and legislative reform are best practice and undertaken in a nationally consistent and cooperative manner. The committee has participated in a number of national projects to improve policy coordination and research activities and supports the operation of Consumer Affairs Australia and New Zealand.

Product Safety Consultative Committee

The Product Safety Consultative Committee is made up of representatives of product safety regulators from all Australian states and territories, the Commonwealth Treasury, as well as New Zealand and Papua New Guinea. The ACCC chairs the committee.

The committee is a key forum through which the ACCC and state and territory fair trading agencies collaborate on a range of emerging product safety issues.

The committee met monthly during 2014–15 to progress a range of national product safety matters, including the twice-yearly product safety surveillance program and nationally coordinated consumer and supplier education campaigns.

Other product safety partnerships

Since the introduction of the harmonised national product safety system, the ACCC has continued to strengthen relationships with state and territory counterparts. We have also worked in partnership with other agencies to deliver and coordinate actions that ensure better safety outcomes. We build relationships with organisations including the Australian Customs and Border Protection Service, Kidsafe, Royal Life Saving Society, various industry associations, Standards Australia and state and territory fire safety agencies.

Recognising the impact of global marketplaces, we cooperate with the international safety community to address emerging safety hazards and harmonise regulatory approaches. Our international partners include the US Consumer Product Safety Commission, European Union and Commission, Health Canada, the New Zealand Ministry of Business, Innovation & Employment and the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China.

Australasian Consumer Fraud Taskforce

The ACCC chairs the Australasian Consumer Fraud Taskforce, which was formed in March 2005. The task force comprises 22 government regulatory agencies and departments with responsibility for consumer protection against frauds and scams. The task force also partners

with a range of community, non-government and private sector organisations in the effort to increase the level of scam awareness in the community.

The task force's National Consumer Fraud Week ran from 18 to 24 May 2015. National Consumer Fraud Week is the task force's major annual scams awareness initiative. It aims to raise public awareness about scams and empower Australians to protect themselves against them. As part of this year's National Consumer Fraud Week, the task force released the report *Targeting scams: Report of the ACCC on scams activity 2014*.

The theme of National Consumer Fraud Week this year was 'Get smarter with your data', which explored identity theft and focused on the ways that scammers steal personal details from their victims. The theme aimed to address the fact that identity crime is one of the most common crimes in Australia, with an estimated economic impact exceeding \$1.6 billion in Australia every year.

Policy developments

In 2014–15 the ACCC provided advice to several policy agencies on numerous competition and consumer issues:

- We helped to prepare for the Australian Consumer Law Review, which is required under the terms of the Intergovernmental Agreement for the ACL. Consumer affairs ministers considered the terms of reference for the review in June 2015.
- We worked with the Department of Agriculture and the Department of Industry and Science in response to the government's commitment to consider options to reform Australia's country of origin food labelling laws.
- We worked with ACL regulators and the Treasury on extending the protections against unfair contract terms to small businesses.
- We provided a submission to the Department of Infrastructure and Regional Development's options discussion paper for the 2014 Review of the *Motor Vehicle Standards Act 1989* (Cth). In that submission we supported the reduction of barriers to the personal importation of new and quality used vehicles and strengthening the *Motor Vehicle Standards Act 1989* recall powers so that the Minister for Infrastructure has clearer responsibility for all vehicle recalls.
- We participated in an automotive industry roundtable on access to service and repair information for motor vehicles. A heads of agreement was signed by industry in December 2015. Parties to the agreement recognised that access to service and repair information should be available on commercially fair and reasonable terms.
- We participated in a working group that considered possible options for regulating free range egg labelling, particularly having regard to several legal proceedings that the ACCC instituted against a number of free range egg producers. Consumer affairs ministers considered the issue in June 2015.

International partnerships

The ACCC's international activities are targeted at the development and promotion of effective competition and consumer protection regimes around the globe. More specifically, the ACCC aims to increase dialogue with our international counterpart agencies to enhance information sharing and facilitate investigative and enforcement cooperation, which is increasingly important in a global economy.

International Competition Network

The ACCC collaborates with international counterparts through forums such as the International Competition Network. In April 2015 the ACCC hosted the annual meeting of the International Competition Network, which is the key event on the global competition

calendar. The event was attended by more than 400 international delegates from over 70 countries, including staff from competition agencies, academics, and legal and economic representatives.

During the meeting, particular focus was given to how to regulate unilateral conduct without stifling innovation, how international cooperation can improve merger review and cartel enforcement and how competition agencies should contribute as advocates for competition. The annual meeting also had a strong connection to the digital economy and it was agreed that this is a priority area for cooperation between competition authorities.

The annual meeting also saw the signing of a cooperation arrangement between the ACCC and the Japan Fair Trade Commission. This agreement builds on the Japan-Australia Economic Partnership Agreement, which commenced on 15 January 2015, and paves the way for increased cooperation and investigative assistance between the ACCC and the Japan Fair Trade Commission on competition matters that affect Australian or Japanese markets.

Our ongoing work within the International Competition Network this year included:

- co-chairing the Cartel Working Group's Enforcement Techniques sub-group
- organising and presenting at international workshops and teleseminars on competition issues, including mergers, cartels, unilateral conduct, advocacy and agency effectiveness
- contributing to International Competition Network work products, including Cartel Working Group guidance on the relationships between competition agencies and public procurement bodies and a training on-demand video module on interview techniques.

Bilateral engagement

The ACCC regularly engages and exchanges information with other regulators internationally on investigations and merger assessments. In 2014–15, we:

- received and responded, or made requests to, over 150 agencies in Armenia, Austria, Belgium, Botswana, Brazil, Brussels, Canada, Chile, China, Colombia, European Union, Fiji, Finland, France, Germany, Hong Kong, Hungary, Iceland, Indonesia, Israel, Italy, Ireland, Japan, Kiribati, Korea, Malaysia, Mauritius, New Zealand, Netherlands, Norway, Pakistan, Papua New Guinea, Poland, Portugal, Saudi Arabia, the Seychelles, Singapore, South Africa, Spain, Switzerland, Sweden, Switzerland, Thailand, Turkey, Uganda, the United Kingdom and the United States of America. Sharing Australian evidence of contraventions and experience in best practice facilitates international enforcement, develops the capacity of counterpart agencies and strengthens relationships. Receiving information from regulators helps the ACCC to stay abreast of international best practice and increases the efficiency and effectiveness of our merger and enforcement investigations
- hosted study visits by officials from Brunei, Darussalam, Cambodia, Indonesia, Hong Kong, Japan, Lao PDR, Malaysia, Myanmar, Philippines, Saudi Arabia, Singapore, Thailand, and Vietnam
- prepared reports and made presentations on Australian competition, consumer and regulatory law developments at many international events.

The ACCC hosted staff on secondment from the United States Consumer Product Safety Commission, the Competition Commission of Hong Kong and the Competition Commission of Singapore. The ACCC also seconded staff to the Malaysia Competition Commission and the Competition Commission of Singapore. These secondments enhance enforcement capacity and strengthen collaboration between regulators.

The ACCC was funded under the ASEAN Australia New Zealand Free Trade Agreement to send two experts on secondment to the Vietnam Competition Authority and the Malaysia

Competition Commission to assist those institutions to build their capacity to enforce their respective competition laws.

Staff from the AER participated in exchanges with international regulators such as the Office of Gas and Electricity Markets in the United Kingdom and the Market Surveillance Administrator in Alberta, Canada. The exchanges enhanced the skills of staff involved and developed the relations between the agencies.

Regional engagement

The ACCC recognises the benefits that efficient markets in the region deliver to Australian consumers and businesses. For this reason it works actively in the Asia-Pacific region to promote the development of effective competition and consumer protection regimes. A major component that started in 2014–15 is the Competition Law Implementation Program run by the ACCC, which aims to build the capacity of Association of South-East Asian Nations (ASEAN) Member States to combat anti-competitive activities in individual markets and the region more broadly. The Competition Law Implementation Program is a demand-driven program of capacity building that is managed and implemented by the ACCC in partnership with our ASEAN colleagues. See the case study on page 90.

Other regional engagement activities in 2014–15 included participating in the:

- 1st ASEAN Consumer Protection Conference
- 4th ASEAN Competition Conference
- 8th Seoul International Competition Forum
- Australia–New Zealand Leadership Forum
- ASEAN–OECD Good Regulatory Practice Conference
- East Asian Top Level Competition Officials Meeting
- International Bar Association Annual Meeting, incorporating the Annual Asian Enforcers Roundtable
- APEC Seminar on Sharing Good Practices and Experiences on Developing Franchise Regulations
- International Competition Network Cartel and Merger workshops in Taiwan and Delhi
- product safety seminar for ASEAN consumer protection agencies (Jakarta).

Full details of our regional engagement and participation are detailed in our quarterly report, *ACCCount*, on the ACCC website.

Organisation for Economic Co-operation and Development

We continue to input to the OECD through a variety of fora. At the OECD Competition Committee meetings we continued to advocate for international cooperation in competition investigations and proceedings, including advocating successfully for an amendment to the OECD's formal recommendation on cooperation between competition authorities to recognise the importance of procedures for the exchange of confidential information. The revised recommendation assisted us in developing our cooperation arrangement with the Japan Fair Trade Commission (noted under 'International Competition Network' on page 86).

We also contributed to numerous papers on competition issues that impact on Australia and the region. Commissioner Dr Jill Walker continued as an active member of the OECD Competition Committee Bureau.

We also work with the OECD to improve regulatory practice and policy: see strategy 3.4, 'Improve regulatory practices and processes, including by building relationships with domestic and international regulatory agencies to leverage their experience' for more information.

We attended two meetings of the OECD Regulatory Policy Committee, which included roundtables examining best practice principles for the governance of regulators and how productivity and economic growth potential can be unlocked through better regulatory policies. We also attended an expert meeting specifically addressing how regulatory performance can be measured.

We also presented at the ASEAN-OECD Good Regulatory Practice Conference on what it means to be a world-class regulator.

We chaired two face-to-face meetings of the OECD Working Party on Consumer Product Safety and presented on Australia's Product Safety Market Surveillance Laws and Processes at the Official Government Seminar on Product Safety hosted by the Indonesian Ministry of Trade, Jakarta. We also provided a panel member for the plenary session *The global regulator's perspective: Enforcement and emerging priorities around the world* at the International Consumer Product Health and Safety Organization annual meeting and training symposium in Orlando, Florida, in the United States.

International Consumer Protection Enforcement Network

We continued our long engagement with ICPEN, presenting at conferences, co-chairing the Intelligence Steering Group and sitting on the network's Advisory Group. Work over the year included:

- gathering intelligence on consumer protection priority areas from members and preparing the twice-yearly intelligence report
- participating in the ICPEN initiative to protect vulnerable consumers by sweeping dating websites for misleading offers, unclear pricing policies or consumer contracts with unfair terms. The web search was part of an annual internet sweep that involves over 50 consumer protection agencies around the world
- attending the ICPEN best practices workshop on online issues.

Government liaison

Assistance to parliamentary inquiries and government reviews

We assist parliamentary inquiries and government agencies in developing policy and legislation. In 2014–15, we contributed to the reviews and inquiries detailed below, as well as the agencies listed under 'Goal 3' on page 138.

Competition Policy Review

As the most significant review of competition policy in Australia in 20 years, the ACCC and AER engaged extensively during the consultation phases of the Competition Policy Review (the Harper review) and in response to the panel's final report. On 22 September 2014 the panel released its draft report. During the consultation period we submitted our views on a variety of issues to do with competition policy in Australia. The ACCC provided a [detailed submission](#) in response to the draft report on 26 November 2014.

On 31 March 2015, the Competition Policy Review Panel released its final report. The report recommends exposing more sectors of the Australian economy to competition. On 1 June 2015 the ACCC submitted its [response to the report](#), which supported many of the panel's recommendations and addressed some of our key concerns. These concerns relate to, for example, the cartel provisions, the proposed misuse of market power provisions, corporate governance and institutional arrangements of the ACCC. As the government continues to consult, we will continue to make constructive inputs aimed at improving Australia's competition laws.

Case study

Competition Law Implementation Program

Cooperation to strengthen competition law enforcement is a vital part of Australia's international engagement. The ACCC, as a mature agency in a dynamic region, is committed to helping counterparts in South-East Asia seeking assistance to build the foundations of effective competition law and regulation.

In late 2014, the ACCC began delivery of a major capacity-building initiative—the Competition Law Implementation Program (CLIP)—to support ASEAN Member States to introduce and implement national competition laws and policies.

CLIP is funded under the framework of the ASEAN-Australia-New Zealand Free Trade Agreement Economic Cooperation Work Program. The ACCC received \$2.2 million to deliver CLIP activities to December 2015.

Under CLIP, the ACCC is working with ASEAN competition authorities to build capacity to combat anti-competitive activities in individual markets and the region more broadly. Activities are tailored to the prevailing needs in ASEAN jurisdictions with a view to supporting effective implementation of competition law ASEAN-wide by 2025.

Since activities commenced in October 2014, the ACCC has delivered workshops, expert placements and technical and mentoring assistance on a bilateral, sub-regional and ASEAN-wide basis. Activities aim to develop individual and organisational capability through practical skills and knowledge transfer, while also sharing the experience and judgment that the ACCC has developed in over 40 years of competition law enforcement in Australia.

A highlight of CLIP to date has been the study visit to Sydney by 24 ASEAN competition experts, hosted by the ACCC from 4 to 6 May 2015. The visit provided ASEAN delegates with opportunities to meet senior staff of both the ACCC and the New Zealand Competition Commission as well as senior representatives from central government agencies, academia, law firms, business and consumer advocacy groups and the judges of the Federal Court of Australia to discuss issues in the development, promotion and enforcement of competition policy and law.

The ACCC is committed to developing long-term, cooperative relationships with competition law enforcement agencies in the region. As economic ties between Australia and Asia deepen, these relationships will provide the platform from which future cross-border enforcement cooperation will grow.

ACCC reports

As part of its role, the ACCC is required to produce a range of reports, many of which are provided to the government and various government agencies. For a list of our monitoring and regulatory reports see appendix 11.

Contributions to inquiries and reviews

In 2014–15 we:

- gave evidence at and responded to questions on notice on the House of Representatives Agriculture and Industry Committee inquiry into country of origin food labelling
- wrote a letter to an inquiry by the Senate Rural and Regional Affairs and Transport References Committee into the requirements for seafood labelling and products
- gave evidence at and responded to questions on notice on the Senate Standing Committee on Economics inquiry into the Competition and Consumer Amendment (Misuse of Market Power) Bill 2014
- gave evidence at the Senate Select Committee inquiry on the NBN
- made a submission to the Senate Environment and Communications References Committee inquiry into electricity network companies
- made a submission to the Parliamentary Joint Committee on Intelligence and Security inquiry into the Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014
- made a submission to and gave evidence at the Senate Economic References Committee inquiry into incentives to privatise state or territory assets and recycle the proceeds into new infrastructure
- gave evidence at the Senate Economics References Committee inquiry into digital currency
- made a submission and presented to the independent panel reviewing the *Water Act 2007*
- made a submission to the Department of Infrastructure and Regional Development's review of the *Motor Vehicle Standards Act 1989*, about parallel importation of secondhand and new vehicles
- made a submission to the Senate Committee inquiry into the Copyright Amendment (Online Infringement) Bill 2015
- the AER made a submission about electricity networks to the Department of Industry's Green Paper on energy policy.

Food and Grocery Code Regulation inquiry

In March 2015, the ACCC made a submission to and appeared before the Senate Economics Legislation Committee's inquiry into the Competition and Consumer (Industry Codes—Food and Grocery) Regulation 2015. The inquiry examined stakeholder views of the code and also considered the viability of options for dispute resolution available under it. The committee concluded that the code represents significant progress in improving the standards of business conduct in the food and grocery sector. It was also satisfied that the code will achieve its stated purposes as set out in clause 2 of the code. The inquiry report of May 2015 therefore recommended that the regulation stand.

Grain export networks inquiry

In February 2015, the ACCC gave evidence at and appeared before the Senate Rural and Regional Affairs and Transport References Committee inquiry into grain export networks, including the on-and-off-farm storage, transport, handling and export of Australian grain.

The ACCC also responded to questions on notice in relation to this inquiry. The questions focused on the process that the ACCC undertakes when evaluating whether to exempt port terminals under clause 5 of the wheat code.

Telstra compliance report

In May 2015, the ACCC tabled in parliament its report on Telstra's compliance with its Structural Separation Undertaking. The report demonstrated that Telstra was generally compliant with its commitments under the Structural Separation Undertaking during the 2013–14 financial year but nonetheless failed to meet its obligations on a number of occasions.

In the 2013–14 financial year, Telstra breached its undertaking obligations to:

- ensure equivalence between its retail and wholesale operations in the rectification of basic telephone service faults and the ADSL/LSS service qualification process
- properly ring-fence confidential or commercially sensitive wholesale customer information, which is provided to Telstra in its capacity as access provider of regulated services, from being disclosed to its Retail Business Units.

Telstra has made significant progress towards addressing issues that came to light following the commencement of the undertaking. Our response to the breaches of the undertaking has been to work with Telstra to focus upon stopping the conduct, reducing its effect, and ensuring that steps are taken to prevent recurrence.

2.3 Protect consumers from unsafe products

2014–15 strategy: *Identify and implement nationally integrated approaches to minimise the risk of injury and death from safety hazards in consumer products.*

- Measures:**
- Outcomes and impact of actions to prevent or address consumer harm or unfair trading.
 - Efficiency and effectiveness of actions to promote consumer safety and fair trading and both consumer and small business awareness and assertion of their consumer law rights.

Consumers have a right to expect that products they buy work properly without unreasonable risk of causing illness or injury. This is because businesses must use quality control measures to ensure that products they supply meet acceptable levels of safety. Suppliers also have to ensure products meet requirements of relevant mandatory standards and bans and comply with recall and mandatory reporting requirements. To complement these requirements, consumers can also seek damages from businesses that sell products that are unsafe causing serious injury or death.

The ACCC will also always prioritise the assessment of product safety issues which have the potential to cause serious harm to consumers.

Product safety issues may arise because:

- design, structural or performance problems make a product unsafe
- a product does not work the way the way it should and operates in unintended ways that make it unsafe
- suppliers have failed to ensure a product meets requirements of a ban or mandatory safety standard
- a product is old, has parts missing or is broken
- a product lacks adequate information for assembly and use
- people have unsafe ways of using a product that can cause injuries
- people do not read instructions for assembly or use or fail to pay attention to warning labels.

Injuries can result from inappropriate use of products or use of products that do not meet current regulations. Some serious injuries that have been related to unsafe products or unsafe use of products include:

- falls
- drowning
- ingestion or inhalation of toxic substances
- choking on small parts
- strangulation resulting from entrapment in gaps or snagging of clothing
- suffocation resulting from entrapment in soft and excessive bedding
- crushing under heavy objects that are or have become unstable
- pinching, piercing and cutting caused by sharp edges or moving parts.

With so many potential causes of injury with significant consequences, product safety is an ongoing high priority. In 2014–15 we were particularly focused on working with industry to improve product safety through minimising the supply of unsafe goods, by focusing on good practice in the manufacture, sourcing and quality assurance of consumer products.

Emerging hazards and recalls

The ACCC uses an intelligence-led approach to assessing current and emerging safety risks. In 2014–15, our product safety activities included a particular focus on unsafe imports and chemicals in consumer products.

We review a range of data sources to identify issues that may present a safety concern. Data sources include mandatory reports of serious illness, injury or death; recalls that have taken place internationally; and information we have received from the community. The ACCC assesses this information and, where warranted, takes action including:

- negotiating the recall of goods
- educating industry and consumers
- negotiating voluntary changes to packaging labelling or product design
- working to introduce changes to voluntary or mandatory requirements
- introducing and/or working to implement changes to product safety mandatory standards and bans.

Recalls

Voluntary product safety recalls are initiated by suppliers when goods they have supplied have a fault that means they may be unsafe and may cause injury or because the goods do not comply with a mandatory safety standard or ban. Suppliers often discover faulty products as a result of consumer complaints or internal audits, but often the ACCC contacts suppliers to request that they initiate a product assessment when we receive intelligence that goods may be unsafe or non-compliant with a safety standard. The supplier or the ACCC may commission laboratory tests to determine if the goods are unsafe. If they are, the goods may need to be recalled from consumers for repair, replacement or refund of the purchase price.

Suppliers are required to notify the Minister if consumer goods are recalled. The ACCC receives notifications and we often work with suppliers on the strategies that will be put in place to retrieve the goods. The ACCC also initiates and negotiates recalls where safety concerns are identified.

We received a total of 596 recall notifications in 2014–15—306 related to general consumer goods, 230 related to motor vehicles, 54 related to food and six related to therapeutic goods.

The ACCC continued to work collaboratively with state and territory electrical safety regulators by providing intelligence on high-risk electrical appliances and negotiating their recall. In 2014–15, for example, there were three separate recalls of faulty fan heaters produced by the same manufacturer, totalling 146 000 units; and 10 recalls of inflatable spas presenting an electrocution hazard to the occupants.

Figure 3.1 shows the growth in number of recalls monitored by the ACCC between 2010–11 and 2014–15.

Figure 3.1: Year-on-year growth (based on financial years) of recalls monitored by the ACCC

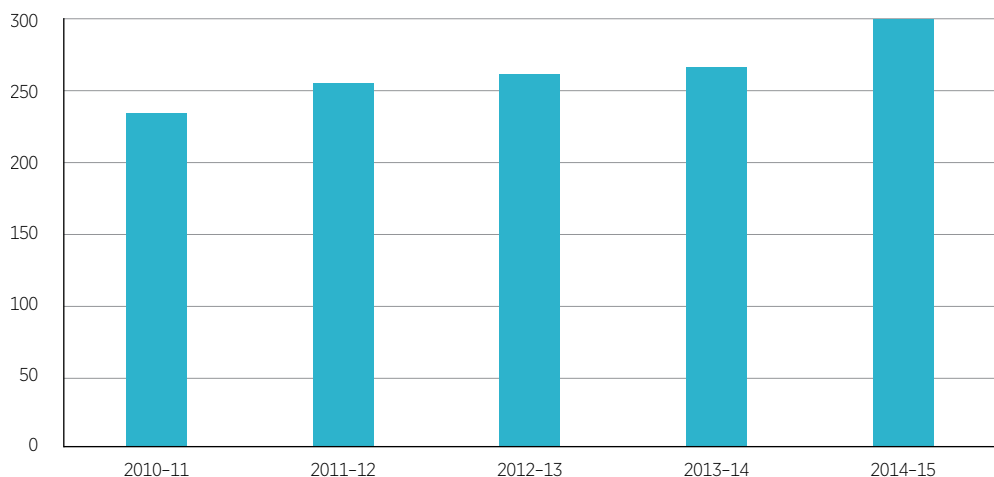
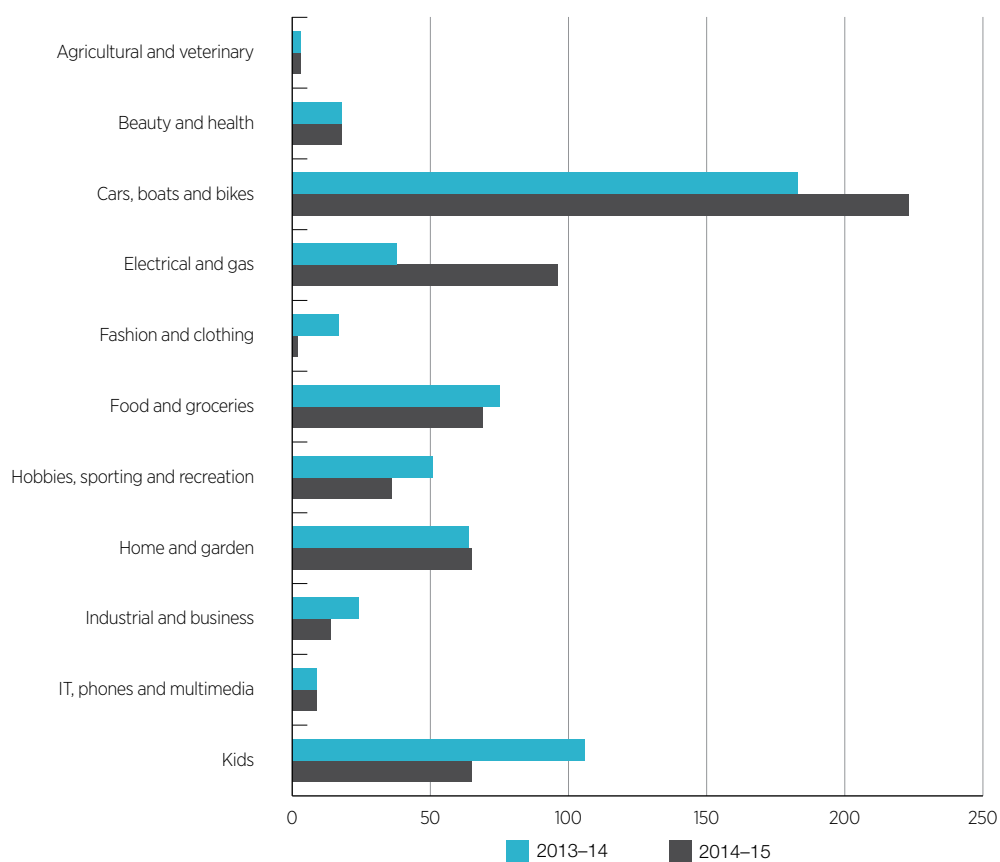


Figure 3.2 sets out a comparison of the number of recalls by product category. The number of recalls noted is higher than the number of recalls received because recalls may appear in a number of categories.

Figure 3.2: Number of recalls by product category, 2013-14 to 2014-15



Case study

Recall of Infinity electrical cable

The ACCC is at the forefront of coordinating efforts to recall Infinity electrical cable, which was found to be unsafe because its insulation fails the electrical safety standard for aging and will become prematurely brittle with age, potentially causing electric shock or house fires if disturbed.

Infinity cable was supplied in Australia by the Infinity Cable Co Pty Ltd in May 2010 and August 2013. The cable is known to have been installed in new and existing buildings during renovations or when electricians have done wiring when installing appliances.

The small amount of cable that was manufactured in 2010 is expected to start becoming potentially unsafe from 2016 onwards. Progressively larger amounts of the cable were manufactured in the following three years.

The Infinity Cable Task Force, consisting of state and territory regulators and the ACCC, was set up to coordinate efforts to manage and advertise recalls of Infinity cable and encourage consumers to have their homes inspected and request remediation.

In 2014–15 the task force successfully negotiated recalls with 27 of the major suppliers of Infinity cable. This accounted for over 85 per cent of approximately 4000 km of cable that has been supplied. The recalls were announced in August and October 2014.

However, supplier progress on the Infinity cable recall in the six months to the end of March 2015 was for the most part disappointing. At this stage only 15 per cent of all Infinity cable sold has been recovered. Based on remediation projects so far carried out, revised estimates place the total number of homes affected at between 13 000 and 20 000. This means Infinity cables are still installed in many thousands of homes.

The ACCC in conjunction with the task force has developed an awareness-raising strategy, which commenced in June 2015. The key focus of the strategy is on urging consumers to take action. Other strategies are also being developed that aim to enlist the help of electrical and building industry bodies. Recall funds secured from the liquidator of Infinity Cable Company Pty Ltd contributed to financing the enhanced media coverage.

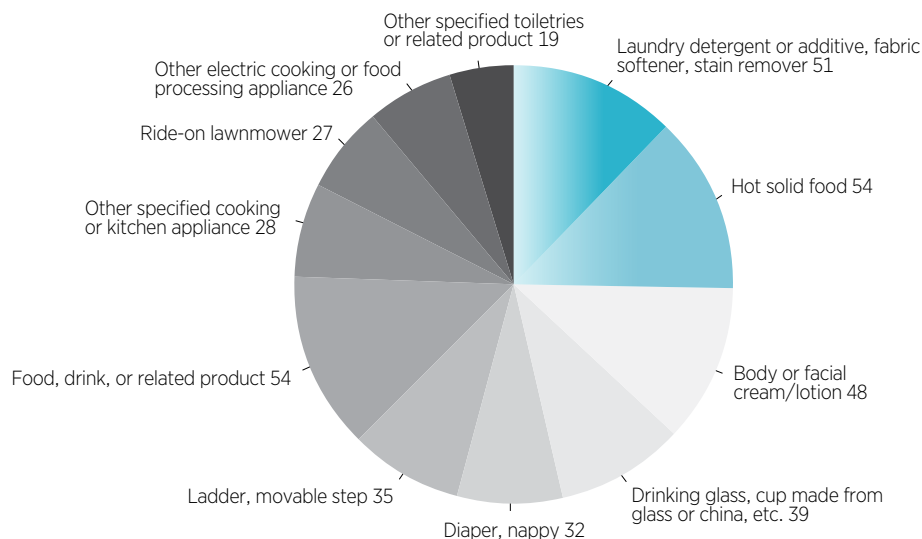
Suppliers have been asked to assess and work on the oldest and/or highest risk installations first. This will assist suppliers in spreading the cost of replacing the cable.

Mandatory reports

Mandatory reports are reports that suppliers are required to submit when they become aware of serious injury, illness or death associated with a consumer product. If a business becomes aware that a product it has supplied has caused serious injury or death, it must report this to ACCC. The ACCC actively uses these reports to quickly assess whether any further action, such as a recall, is needed to address the risks posed by the unsafe product.

The ACCC received 2601 mandatory reports in 2014–15. We referred 1257 reports to other regulators and assessed 1344 ourselves. Twenty recalls resulted from products referenced in mandatory reports.

Figure 3.3: Mandatory reports by product category, 2013–14 to 2014–15



ACCC-initiated safety outcomes

When an unsafe or non-compliant product is supplied into the market, the ACCC will act to remove unsafe product from the market as a priority.

The ACCC regularly negotiates product recalls with suppliers of unsafe, non-compliant products. Unsafe or non-compliant products may be identified from ACCC surveillance activities, consumer complaints or industry intelligence.

During 2014–15 the ACCC successfully negotiated the recall of 20 consumer products, including unsafe babies' cots, flammable candle holders and unsafe fire extinguishers.

The ACCC also has a role in the preparation of product safety standards, which set safety-related requirements. They may be voluntary standards set by groups such as Standards Australia on advice from expert committees or they may be mandatory standards set by regulation, approved by the Commonwealth Minister, after review and consultation.

In the case of certain chemical hazards, we may refer the issue to the Advisory Committee on Chemicals Scheduling where our assessment indicates an amendment to the Poisons Standard may be appropriate.

In 2014–15 improved warnings were included on methylated spirits for use in ethanol burners.

The ACCC continues to work with industry, Standards Australia and other stakeholders to identify product hazards and management of risks. One example is our work with industry and safety groups on storage and warning labels associated with small button batteries.

Case study

Major manufacturers of liquid laundry pods improve the safety of their products

This year the ACCC continued its efforts to raise awareness of the dangers of liquid laundry detergent capsules.

Liquid laundry detergent capsules or 'laundry pods' are usually brightly coloured and contain highly concentrated detergent in a water-soluble outer membrane that dissolves on contact with moisture. To a young child they look like lollies. However, if they get hold of one, with only a small amount of saliva or pressure they can burst the membrane and release the entire contents onto their skin or into their eyes or mouth. The injuries can be very serious because the contents are so concentrated.

ACCC has taken several actions in response to alarming figures on the incidence of injury as a result of the product: there have been two toddler deaths this year and over 16 000 ingestion cases are reported every year worldwide.

In early 2015, we supported an OECD coordinated International Poisons Week campaign to raise awareness of the dangers of the product. This worldwide campaign involved 25 consumer product safety authorities from five continents. As part of the campaign the ACCC urged manufacturers to supply safer products and warned parents to be vigilant when using and storing laundry products so they do not accidentally harm children.

In Australia, the campaign included a media release and social media messaging using the Twitter hashtag #LaundrySafe. We also publicised the campaign on our ACCC Product Safety Facebook page. The campaign achieved a reach of approximately 40 000 for Twitter and 28 000 for Facebook, with posts being shared over 200 times. Globally, the campaign achieved an estimated reach of 24.5 million on Twitter alone and a reach of 100 million in total (all social media and traditional media reach combined).

The ACCC also negotiated the establishment of an industry guideline for labelling and packaging of laundry pods supplied in Australia. We worked with the industry association ACCORD and producers of liquid laundry pods to implement an industry guideline that included:

- reducing the visibility of liquid laundry capsules by using obscure or opaque packaging
- making it difficult for children to access the laundry pods by using harder-to-access containers
- on-pack communication in a prominent place on the pack and labelling that reinforces the safety message and includes the Poisons Information Centre phone number.

In Australia, the major suppliers of laundry pods, Unilever Australasia (Omo pods), Reckitt Benckiser (Vanish Napisan Powershots) and PZ Cussons (Radiant Liquid Capsules) have all implemented the guideline and have made significant changes to their products.

The ACCC is contributing to the revision and update of the Product Safety Framework with Standards Australia and with industry. The Product Safety Framework is a tool to assess hazards and manage risk for products that do not have standards.

As a result of targeted compliance activities concerning household cots, the ACCC issued an infringement notice and accepted enforceable undertakings from **Toys “R” Us Australia Pty Ltd** for the supply of non-compliant Nantucket cots. Toys R Us recalled the Nantucket cots after testing obtained by the ACCC revealed that the cots did not comply with the safety standard and that there was a risk of injury or death to infants from the cots, including from falls, entrapment or suffocation.

Chemical concerns

One of the ACCC’s priorities is to identify and manage risks posed to consumers by chemicals. For example, in 2014 we carried out analytical testing of the vapour from electronic cigarettes (e-cigarettes) to determine whether a range of toxic chemicals may be present. The information from the testing will assist health and regulatory agencies to understand the potential risks associated with using e-cigarettes and whether the representations being made by suppliers are true. For more information see the case study on page 100.

Regulation

The ACCC makes recommendations to the Minister responsible for product safety, the Hon. Bruce Billson MP, Minister for Small Business, about amending or developing product safety regulations to address products that have the potential to harm consumers.

To deal with potentially hazardous products, the ACCC can make product safety standards. The ACCC periodically reviews product safety standards to ensure that they are workable in a changing economy. Product safety standard reviews are part of our ongoing contribution to the Australian Government’s policy objectives, including its deregulation agenda. The ACCC can also introduce product bans for unsafe products.

New product safety standards

A new mandatory standard, the *Competition and Consumer (Corded Internal Window Coverings) Safety Standard 2014*, came into effect on 1 January 2015. This standard covers safety requirements for the product-related service of installing these products

No standards were repealed during the reporting period.

Public consultations were initiated to:

- inform non-regulatory approaches to improve the safety of products containing button batteries (November 2014)
- consider options to limit consumer exposure to hazardous azo dyes in certain clothing (February 2015)
- consider the principles by which international standards should inform the development of product safety standards (May 2015).

Revised product safety standards

The standards for child restraints for use in motor vehicles and for bean bags were amended following public consultation. The revised child restraint standard commenced on 19 September 2014 and the revised bean bag standard will take effect on 1 January 2016. For more information on the revised child restraint standard, see the case study on page 102.

Case study

ACCC commissions study to test e-cigarette safety claims

In 2014, the ACCC received reports on concerns about the safety of electronic cigarettes, or e-cigarettes, and the truthfulness of claims made about them in advertising.

A number of e-cigarette suppliers claim that their products contain no harmful chemicals. To test these claims, the ACCC commissioned analytical testing of electronic cigarette liquids and vapour. The testing revealed a number of toxic compounds in the e-cigarette vapour. Those findings are consistent with recently published research.

The ACCC is currently considering what enforcement action may be appropriate to address what appear to be false and misleading claims.

E-cigarettes are an increasingly popular consumer product designed to simulate the act of tobacco smoking. The devices operate by heating a solution to produce a vapour (which may or may not contain nicotine) that users inhale.

As e-cigarettes are relatively new, their worldwide marketing, sales and use are largely unregulated. Up to 50 per cent of sales are conducted online.

E-cigarettes are often promoted as a smoking cessation aid. However, public health advocates are divided over the potential benefits of e-cigarettes. Some nicotine replacement therapy products have been assessed by the Therapeutic Goods Administration for safety, quality and efficacy. However, no assessment of e-cigarettes has been undertaken.

The testing that the ACCC commissioned examined e-cigarette liquids for nicotine and diethylene glycol. The vapour was tested for particulates, metals, polycyclic aromatic hydrocarbons, carbonyls and volatile organic compounds. The testing showed that e-cigarettes may contain chemicals that are toxic.

An additional concern with e-cigarettes is the presence of nicotine in the liquids. Nicotine is scheduled as a dangerous poison in the Standard for the Uniform Scheduling of Medicines and Poisons under the *Therapeutic Goods Act 1989* (Cth). A dramatic increase in nicotine poisoning cases has been observed around the world in conjunction with the rise of e-cigarette use. Where our testing confirmed the presence of nicotine in e-liquids, the products were referred to state government health agencies that enforce the poisons regulations.

The ACCC also contributed to work undertaken by the Department of Health aimed at developing a national policy approach to e-cigarettes.

Reviews of the standards for hot water bottles and balloon blowing kits were also completed. The standard for hot water bottles will be maintained in its current form and the standard for balloon blowing kits will be further considered as part of the review of all toy standards in 2016.

The ACCC consulted on three other reviews in 2014–15. Existing standards on household cots, prams and strollers and bunk beds were the subject of consultation in August 2014.

Product safety bans

No new product safety bans were made during the reporting period.

Compliance

To achieve our product safety compliance objectives, we use three integrated and flexible strategies:

- We encourage compliance by educating and informing consumers and businesses about their rights and responsibilities under the Act.
- We enforce the Australian Consumer Law by resolving possible contraventions administratively and by litigation.
- We work with other agencies to implement these strategies.

Supplier education

The ACCC continued to provide guidance to industry on existing and new product safety regulations.

This year the ACCC developed supplier guidance for:

- ethanol fuelled burners (in partnership with the Queensland Office of Fair Trading)
- portable pools in Chinese and Vietnamese languages for business owners from non-English speaking backgrounds
- responsible sourcing of products (using online content and webinar).

Compliance concerns

The ACCC investigates possible non-compliance with mandatory standards and bans. We receive information on possible non-compliance from a range of sources. We assess these matters and take action where warranted by issuing warnings or seeking clarifications, instigating broad compliance or educative activity or taking appropriate enforcement action.

During 2014–15, as part of an escalating compliance campaign, the ACCC conducted compliance inspections on retailers across Australia for non-compliant cosmetic products.

Cosmetics should include labels that list the ingredients used in the product. Where ingredient labels are missing or inaccurate, consumers can be misled when making purchasing decisions and be exposed to ingredients that may cause allergic reactions. These allergic reactions could be very harmful to consumers and in some cases may lead to serious injury. Allergies (for example, allergy to egg products) can result in anaphylaxis (rapid-onset, potentially life-threatening systemic allergic reaction) and possibly death.

The ACCC's compliance campaign, which targeted online and traditional bricks and mortar retailers (that is, retailers with a physical premises), provided compliance materials to suppliers and ensured that non-compliant products were removed from the marketplace.

Case study

New mandatory standard for child restraints in motor vehicles

The latest mandatory standard for child restraints used in motor vehicles came into force on 19 September 2014.

The 2014 mandatory standard is notable for its reference to ISOFIX or 'top tether' style attachments on child restraints. ISOFIX, sold under various names, is a standard for attaching child restraints to vehicles without using seat belts and is intended to improve ease of use. ISOFIX anchorage points are now regularly supplied in Australian vehicles. The ISOFIX is considered to be a major contributor to the effectiveness of child restraints in protecting Australian children.

One of Australia's major social achievements has been its reduction of road deaths. Road deaths have fallen by two-thirds during the 25 years since the first laws on seat belt use were introduced.

Since the top-tether child restraint came into wider use through changes in the child restraint standard (1975) and through vehicle construction requirements (1976) vehicle passenger deaths for children under five years of age have fallen rapidly. By 2000 the death rate had fallen 70 per cent, which is the equivalent of one child life per week.*

Australia was one of the first places in the world to introduce standards for child restraints. It published its first standard in 1970. Since 7 November 1978 a mandatory safety standard has set minimum legal requirements for products to be sold.

Also in 1978, the voluntary joint Australian New Zealand standard *AS/NZS 1754: Child restraint systems for use in motor vehicles* was introduced. The standard underpins the mandatory standard and covers design and construction, performance, testing, instructions, informative labelling, marking and packaging. The 2013 revision of the AS/NZ standard was the first time that ISOFIX or 'top tether' features were included.

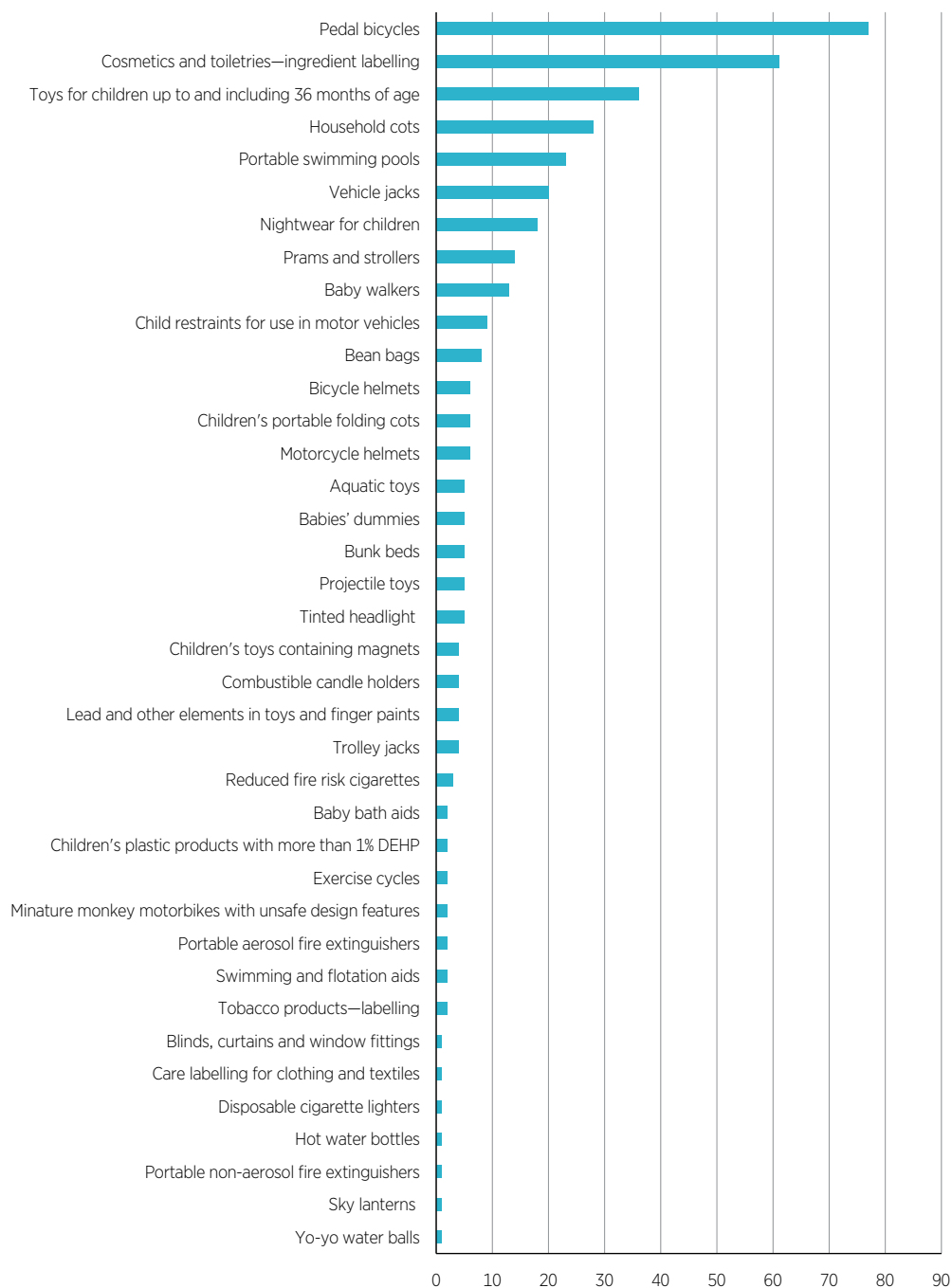
The public consultation process held for the 2014 review of the mandatory standard for child restraints identified that there is some variation in the details of the laws covering child restraints in various states and territories. Differences between what it is legal to sell and what it is legal to use in the different jurisdictions is seen to have the potential to undermine overall safety through confusion to consumers, suppliers and those responsible for enforcement.

In the mid-1980s state and territory road authorities started to regulate which child restraints were to be used in their jurisdictions. It became illegal to use child restraints that did not comply with AS/NZS 1754. The systems of 'supply' regulation and 'use' laws has overlapped for more than 25 years. Some stakeholders expressed concern over the interaction of the 'supply' and 'use' regulations, noting in particular that the existence of differences between what products are legal to sell and what are legal to use and differences between jurisdictions add to complexity, uncertainty and administration and reduce safety.

The ACCC is in discussion with federal, state and territory road agencies to ensure that regulations remain as effective as possible in ensuring safety without excess regulatory burden.

* Australian Bureau of Statistics 'Cause of Death' and 'Demographic' data and *Kidsafe Australia*.

Figure 3.4: Matters considered by standard/ban 2014–15



As part of the 2014–15 escalating compliance campaign, the ACCC also conducted compliance inspections for non-compliant vehicle jacks. Injuries and deaths in Australia resulting from vehicle jack related accidents are high: since 2000, on average, five Australians have been killed each year while working under a vehicle. Accordingly, the mandatory standard requires vehicle jacks to comply with certain construction, performance and labelling requirements so that jacks can be used safely.

Like the cosmetics campaign, the vehicle jack compliance campaign targeted online and traditional bricks and mortar retailers, providing compliance materials to suppliers and ensuring that non-compliant products were removed from the marketplace.

As part of our integrated strategy targeting non-compliant toys in the discount variety sector, we visited over 1300 stores in Australia and inspected over 21 000 products. This program of work is continuing and is due to be finalised in late 2015.

Market surveillance

The ACCC regularly surveys the market to identify compliance concerns in relation to existing regulations and to assist in the identification of new hazards.

In partnership with ACL regulators and other organisations, the ACCC also coordinates and conducts joint surveillance, testing and compliance to address safety concerns.

During 2014–15, the ACCC conducted 3192 wholesale, retail, online and showbag inspections and 12 888 product inspections against 136 mandatory safety standards, bans or product types. Inspections resulted in suppliers withdrawing 126 product types from sale and recalling 29 product types.

Figure 3.4 identifies the number of product safety compliance matters (by relevant mandatory standard) considered by the branch during the 2014–15 year. Product safety compliance matters include complaints received from the public and industry, non-compliant products identified during pro-active surveillance programs and reports of unsafe products by media outlets. The table shows that the branch considered a total of 390 product safety compliance matters in 2014–15.

Product safety enforcement

In September 2014 the ACCC instituted proceedings against **Woolworths Ltd** alleging that Woolworths made false or misleading representations about the safety of certain Woolworths products. It also alleged that Woolworths failed to file mandatory reports as required by the ACL once it had become aware that certain Woolworths products may have caused serious injury or illness.

In November 2014 the Federal Court ordered **Dateline Imports Pty Ltd** to pay penalties of \$85 000 for false or misleading representations. The court imposed the penalty after its judgment on 30 July 2014 that found that Dateline Imports contravened the *Trade Practices Act 1974*, now the *Competition and Consumer Act 2010* (Cth), by making false or misleading representations about the amount of natural keratin in its Keratin Complex Smoothing Therapy hair straightening product. The ACCC has appealed the decision.

In 2014–15, the ACCC finalised three product safety enforcement matters associated with the supply of household cots that did not comply with the mandatory safety standard.

The ACCC issued infringement notices to **Le Tian** (trading as **SavingForAussie**), **New Aim Pty Ltd** (trading as **OzPlaza.Living**) and **Toys “R” Us Australia Pty Ltd**. The companies provided court enforceable undertakings for supplying household cots in breach of s. 106 of the ACL.

In October 2014 **Toys “R” Us Australia Pty Ltd** paid \$10 200 after the the ACCC issued an infringement notice for its supply of ‘Nantucket 4-in-1’ household cots that did not comply with the mandatory safety standard. Toys R Us has also provided a court enforceable undertaking to the ACCC.

In March 2015, as a result of court proceedings and pending further orders, **Online Dealz Pty Ltd** and its director and sole shareholder, **Janet Lucas**, provided undertakings to the Federal Court to refrain from supplying baby cots and strollers that the ACCC alleges do not comply with mandatory safety standards. The allegations remain before the court.

Effective education

Online tools

In 2014–15 the ACCC emphasised its active education and awareness program on safety issues. The program has had a clear focus on the use of online tools and materials and the use of social media.

We use social media, particularly Facebook and Twitter, to disseminate information on product safety issues. By using social media we have reached a wide Australian audience during major safety campaigns. An example of this was our campaign on quad bike safety. Social media was also effective in publicising critical product safety issues and recalls such as those for children’s cots and portable gas cookers.

We have built a strong following on product safety issues. More than 18 000 individuals and organisations currently follow our Product Safety Facebook page and more than 5000 follow @ACCCProdSafety on Twitter.

Education campaigns

In June 2015, the ACCC developed and implemented a multi-channelled communications program via radio, online and social media to raise awareness of the Infinity and Olsent branded Infinity cable recall. The aim of the campaign was to encourage consumers with the faulty cable to seek immediate remediation. For more information on this campaign, see the case study on page 96.

Also in June, the ACCC launched a campaign to raise national awareness of the risks associated with unstable furniture that may topple onto small children. Through ACCC Product Safety social media channels, the campaign promoted safety messages on the Product Safety Australia website and a downloadable fact card for parents and carers, including tips on buying stable furniture and how to ensure furniture items at home are secure.

A new mandatory standard for portable pools was published on 30 March 2014. The ACCC also partnered with states and territories and the Royal Life Saving Society to communicate the dangers of young children drowning in portable pools. The media coverage of the campaign is estimated to have reached an audience of almost three million people.

An integrated compliance strategy aimed to educate suppliers on their obligations under the new standard and to remove any unsafe portable pools from the marketplace.

To promote national awareness of drowning risks associated with portable pools, the ACCC, along with its state and territory regulator counterparts, enlisted Royal Life Saving Society Australia as a safety partner to implement a consumer safety campaign over the 2014–15 Australian summer. The campaign, called ‘Make It Safe’, aimed to educate consumers on the risks of owning a portable pool and provided safety steps to reduce the risks. The campaign reached an estimated three million people across Australia.

In December 2014 the ACCC's annual Safe Santa campaign encouraged consumers to use the online Safe Santa checklist while shopping to ensure that the gifts they were purchasing were safe for the intended recipient, not subject to a recall or banned.

The Safe Sunnies campaign, launched in December 2014, encouraged consumers to choose sunglasses with a lens category rating that best suited them and their activities. The campaign warned people of the dangers of UV damage to eyes and directed them to the 'Safe sunnies: Which pair should I wear?' website and online survey tool.

The ACCC also reiterated quad bike safety messages in December 2014, particularly warning about the dangers of children riding quad bikes meant for adults. This included promoting the 'Quad bike safety: Would you risk it?' YouTube video and campaign website via Google Adwords, as well as promoting a variety of social media messages.

Leading up to 2014 Fathers Day, the ACCC launched a DIY safety campaign. The campaign reminded dads that safety comes first when completing DIY projects around the home. The dedicated 'DIY safety' website and social media messaging promoted the safe use of vehicle jacks, ladders and elastic luggage straps and installation of basketball rings.

2.4 Support a vibrant small business sector

2014–15 strategy: *Support a vibrant small business sector, deter anti-competitive and unconscionable conduct targeted at small business, and facilitate collective bargaining by small business operators where that conduct is assessed to provide a net public benefit.*

- Measures:**
- Outcomes and impact of actions and policies to promote competition (including those affecting small businesses).
 - Outcomes and impact of actions to prevent or address consumer harm or unfair trading (including those affecting small businesses).

Actively informing small businesses of their rights and responsibilities under the Act

The ACCC helps to ensure that small businesses understand and comply with their obligations and encourages them to exercise their rights under the Act (for example, as the customers of larger suppliers and in their business-to-business dealing). Our aim is to promote a competitive and fair operating environment for small business. Importantly, we seek to ensure that small businesses understand how the legislation can help them.

Our main tools are:

- our website, which includes a link to a dedicated page for [small businesses](#), and an online small business complaint form
- the Infocentre small business hotline
- the small business information networks, which small businesses can subscribe to, which provide information about enforcement action, new guides and changes to the Act
- targeted publications, mobile apps, online education modules and videos
- face-to-face and online education and compliance sessions.

The information we provide for businesses includes instructions on how to notify us of any collective bargaining proposals. The instructions help small businesses to get timely decisions on ventures that improve efficiencies and savings, result in public benefit and do not impede competition.

We also regulate commercial behaviour, including by:

- enforcing fair trading provisions
- protecting small business against misuse of market power
- promoting and enforcing codes of conduct
- allowing some trading arrangements in the public interest.

The Infocentre serves the Small Business telephone line (1300 302 021) as well as a dedicated web form for small business. The web form encourages use by small business to submit complaints about possible breaches of the *Competition and Consumer Act 2010*. Enquiries

from small business generally centre on rights and responsibilities under the Act and the Industry Codes we regulate, and accessing ACCC guidance materials.

Small business contacts are submitted through other phone lines and web forms too. When a small business calls our general enquiries line, they will select from the small business options to ensure their call goes to the in-house team of extensively trained staff members. These contacts are subject to the same service level objectives as general enquiries—that is, written responses will be made within 15 working days and 60 per cent of calls will be served within 60 seconds—although the small business line will be prioritised with a new telephony design to be implemented in September 2015.

In 2013 the Infocentre led the review of the ACCC Service Charter and developed specific web content on the topic *What we can and can't do for small business*. Infocentre staff members rely on its content in explaining the role of ACCC to small business and a link is included in all relevant written responses.

Enforcement activities

We aim to make markets work for everyone, including small businesses by, for example, taking action on misleading product claims—for example, credence claims—that can disadvantage competing businesses. As discussed earlier in this report, we use various compliance and enforcement tools—for example, court orders and undertakings enforceable in court—to help ensure that businesses do not breach the Act in trying to gain a competitive advantage.

While involving a consumer protection dimension, many of the ACCC's consumer law interventions involve a strong element of providing an even playing field for competing small businesses and protecting their legitimate points of difference from misleading conduct. This is often a key reason for ACCC intervention. For example, the decision received this year ordering Coles Supermarkets to pay \$2.5 million in penalties for its representations concerning its par-baked bread products involved both consumer harm and competitive detriment. The court noted:

The evidence before the Court showed that Coles had engaged in the campaign with the clear purpose of improving its market share vis-à-vis its competitors, being bakeries such as Bakers Delight ... It set out to do so by engaging in the conduct that, in fact, breached the Australian Consumer Law.

Other matters may involve allegations of misrepresentation as to country of origin, such as the \$10 200 infringement notice penalty paid by Independent Liquor Group Distribution Co-operative Ltd in relation to its 'Aussie Beer'; place of origin or production claims by honey producers; or alleged claims made by egg producers as to 'free range' production, which disadvantage competing producers.

Court cases

In March 2015 a \$500 000 penalty was awarded against **South East Melbourne Cleaning Pty Ltd** (trading as **Coverall**) for unconscionable conduct and contraventions of the Franchising Code of Conduct. Court orders, including a penalty and an order for compensation, were made against the directors of South East Melbourne Cleaning. In October 2014, the Federal Court declared that Coverall had engaged in unconscionable conduct, made false or misleading representations and contravened the Franchising Code of Conduct in its dealings with two individuals who were prospective franchisees and subsequently signed up to the cleaning franchise.

In December 2014 **Coles Supermarkets Australia Pty Ltd** was ordered to pay pecuniary penalties of \$10 million and costs for unconscionable conduct in relation to its Active Retail Collaboration program. Details of the case appear in the case study on page 82.

In April 2015, in proceedings brought by the ACCC, the Federal Court ordered **Coles Supermarkets Australia Pty Ltd** to pay penalties of \$2.5 million for making false or misleading representations and engaging in misleading conduct in relation to the promotion of its par-baked bread products. Details are provided in the case study on page 74.

Undertakings and infringement notices

In August 2014 the ACCC accepted a court enforceable undertaking from **Express Mobile Services Australia Pty Ltd** following an investigation into its alleged non-compliance with certain requirements of the Franchising Code of Conduct and false or misleading representations to prospective franchisees.

In March 2015 **The Independent Liquor Group Distribution Co-Operative Ltd** paid \$10 200 after the ACCC issued an infringement notice to the company. The ACCC issued the infringement notice because it had reasonable grounds to believe that Independent Liquor had made false or misleading representations about the country of origin of its 'Aussie Beer' product, in contravention of the ACL. The ACCC alleged that the labelling and packaging of three beer labels that Independent Liquor owned and wholesaled—that is, Aussie Beer, Aussie Gold and Aussie Dry—represented that the 'Aussie Beer' product was made in Australia when in fact it was made in China.

In May 2015 **Supabarn Supermarkets Pty Ltd** and **The Real Juice Company Pty Ltd** each paid \$20 400 after the ACCC issued them with infringement notices concerning representations made about two juice products from the private label range of juices manufactured by The Real Juice Company and sold by Supabarn.

Other enforcement activities

In November 2010, the ACCC issued a s. 155(1)(a) and (b) notice in the course of an investigation of **Natural Food Vending Pty Ltd**. Natural Food Vending failed to respond to the notice by the due date. The ACCC has brought proceedings against **Robert Paul Davies** (the sole director and shareholder of Natural Food Vending) alleging that, by failing to respond to the notice, Natural Food Vending committed an offence against s. 155(5)(a) of the *Trade Practices Act 1974* and that Davies aided, abetted, counselled or procured the commission of the offence by the company by virtue of s. 11.2(1) of the *Criminal Code*. The case is ongoing.

Small business education and outreach

Small business related education and outreach activities that occurred during 2014–15 include the following:

- There were almost 8000 users of the ACCC's online education program for small businesses, bringing the total number of users since the program's launch in April 2013 to over 17 600.
- There were more than 10 000 users of the ACCC's online education program for tertiary students, bringing the total number of users since the program's launch in November 2013 to more than 13 800.
- About 2300 people enrolled in the ACCC-sponsored Griffith University delivered franchise pre-entry education program, bringing the total number of enrolments since the program's launch in July 2010 to almost 8400.
- ACCC staff gave more than 70 speeches and presentations to small business audiences as well as attending expos and other events.
- Two editions of *Small business in focus*, a twice-yearly summary of our activities in the small business and franchising sectors and update on industry codes, were released.

- The Small Business Consultative Committee met twice in 2014–15. Topics discussed in detail with committee members in these two meetings included a presentation from the Competition Policy Review Panel about the Harper review; product safety; and updates from the Treasury about the proposed business-to-business unfair contract terms law extension and the new Small Business and Family Enterprise Ombudsman.
- The ACCC and the Australian Securities and Investments Commission jointly produced *Debt collection guideline for collectors and creditors*, was updated in July 2014. The guideline assists creditors and debt collectors to understand their rights and obligations and ensures that debt collection activity is undertaken in a way that is consistent with consumer protection laws.
- In partnership with the Australian Securities and Investments Commission, the Australian Taxation Office and the Fair Work Ombudsman, the ACCC ran a live webinar for small businesses in October 2014. The webinar provided useful tips and new tools and resources to assist small businesses to understand their rights and obligations. The webinar was well received by the small business sector, with over 450 small businesses and small business representatives watching live. A video of the webinar is available on the [ACCC YouTube channel](#).
- In February 2015, UK economist Professor David Storey, from the University of Sussex, delivered a presentation about the competitive experience of small and medium sized enterprises to members of the ACCC's Small Business Consultative Committee and Franchising Consultative Committee. Members of the Australian Taxation Office Small Business Liaison Group and a number of other stakeholders were also invited.
- In May 2015, during National Consumer Fraud Week, the ACCC and the Institute of Public Accountants hosted a small business scams and cybercrime forum in Melbourne. The free event aimed to help small business operators, advisers, industry associations and other stakeholders learn about the risks that small businesses face and the steps they can take to protect themselves. The event included presentations by subject-matter experts and a Q&A panel discussion. A video of the forum is available on the ACCC YouTube channel.

Small Business Consultative Committee

The ACCC's Small Business Consultative Committee allows industry and government to discuss the competition and consumer law concerns affecting small business. Meetings are chaired by ACCC Deputy Chairperson, Dr Michael Schaper.

Committee members include representatives from the Australian Chamber of Commerce and Industry, the Australian Retailers Association, the Institute of Chartered Accountants in Australia, the Institute of Public Accountants, the Optometrists Association Australia, the Real Estate Institute of Australia, Master Builders Australia, Master Grocers Australia and the Council of Small Business of Australia.

The committee met twice in 2014–15. One of these meetings was a joint meeting with the Franchising Consultative Committee to discuss a range of issues including the Australian Government's proposed Small Business and Family Enterprise Ombudsman and extension of unfair contract term laws to small businesses.

Franchising Consultative Committee

The ACCC's Franchising Consultative Committee enables consideration of, and collaborative action on, competition and consumer law concerns relating to the franchising sector and other franchising issues. Committee members include representatives from the Franchise Council of Australia, the Franchisee Association of Australia, the Australian Motor Industry Federation and the Federal Chamber of Automotive Industries. The committee is chaired by ACCC Deputy Chairperson, Dr Michael Schaper.

The committee met three times in 2014–15, including an extraordinary meeting to discuss amendments to the Franchising Code.

Small business commissioners

In 2014–15 we continued to work with the four state small business commissioners and the Office of the Australian Small Business Commissioner on a range of matters. The group meets three to four times a year and discusses the types of complaints received by each of the commissioners as well as new and proposed laws affecting small businesses (for example, the proposed small business unfair contract term provisions). Some of the issues raised in these discussions are currently the subject of ACCC investigation.

Regulators group on small business issues

A range of Commonwealth government agencies have small business roles and responsibilities. A cross-government group called the Federal Regulatory Agency Group, made up of the ACCC, the Australian Securities and Investments Commission, the Australian Taxation Office and the Fair Work Ombudsman and chaired by the Australian Small Business Commissioner, was established to improve regulatory coordination on small business matters. The group meets quarterly to discuss ways to more collaboratively engage with and educate small businesses. Its activities have led to initiatives such as the (now annual) joint regulator webinar for small businesses and ‘fix-it squads’ (rapid-design groups made up of small business operators and intermediaries and representatives from federal, state and local government, all working together to examine and solve small business problems).

Codes of conduct

The ACCC is responsible for promoting and enforcing compliance with five mandatory prescribed industry codes—the Franchising Code, the Horticulture Code, the Oilcode, the Wheat Port Code and the Unit Pricing Code—and one voluntary prescribed industry code—the Food and Grocery Code.

Franchising Code

The Franchising Code of Conduct aims to regulate the conduct of franchising participants and ensure that prospective franchisees are sufficiently informed before buying into a franchise. It also provides for a cost-effective and formal dispute resolution scheme for franchisees and franchisors.

We administer and enforce the Franchising Code and audit franchisor compliance with the code’s obligations (see appendix 7). Several investigations of alleged breaches of the code or the Act by franchisors are currently underway.

Changes to the mandatory Franchising Code came into effect on 1 January 2015. The code applies to all franchise systems and franchisees across Australia. Under the new code the ACCC can:

- issue infringement notices of \$8500 for body corporates (\$1700 for individuals and other entities)
- seek penalties of up to \$51 000 in court for serious breaches of certain code provisions.

The changes also introduce a good faith obligation into the code. This obligation requires both parties to a franchise agreement to remain loyal to the contract that they have signed. Other changes to the code include:

- a requirement for franchisors to provide prospective franchisees with a short information sheet outlining the risks and rewards of franchising

- a requirement for franchisors to provide greater transparency in using and accounting for money that they spend on marketing and advertising and to set up a separate marketing fund for marketing and advertising fees
- a requirement for additional disclosure about the ability of the franchisor and a franchisee to sell online
- a prohibition against franchisors imposing significant capital expenditure except in limited circumstances.

The ACCC delivered an educational campaign to inform the franchising sector about the new Franchising Code. The campaign included the release of updated guidance materials; digital advertising; an interactive webinar delivered by Dr Schaper, which was watched live by more than 500 people across the franchising sector; a keynote address by Dr Schaper to the Legal Symposium of the Franchise Council of Australia's National Franchise Convention; presentations by ACCC staff to various forums; and email updates to the Franchising Information Network. A video of the webinar is available on the [ACCC YouTube channel](#).

Horticulture Code

The purpose of the mandatory Horticulture Code is to improve the clarity and transparency of transactions between growers and wholesalers of fresh fruit and vegetables and establish a fair dispute resolution procedure.

Our role is to investigate complaints and, where necessary, take enforcement action against anyone who fails to comply with the code. It includes promoting compliance by publishing educational material such as guidelines, articles and factsheets.

As in previous years, the ACCC liaised with the Department of Agriculture regarding the code and related matters.

Oilcode

The mandatory Oilcode came into effect on 1 March 2007. In general terms, the code regulates the conduct of wholesalers and fuel resellers, including suppliers, distributors and retailers, in the sale, supply or purchase of declared petroleum products (for example, unleaded petrol and diesel).

Wheat Port Code of Conduct

The mandatory Wheat Port Code of Conduct came into effect 30 September 2014. The code regulates the conduct of bulk wheat port terminal operators to ensure that exporters of bulk wheat have fair and transparent access to port terminal services. It replaces the previous wheat port access regime under the *Wheat Export Marketing Act 2008* (Cth).

Unit Pricing Code

The mandatory Unit Pricing Code came into effect on 1 July 2009. The code requires large grocery retailers and online retailers that sell the minimum range of food items to use unit pricing when selling non-exempt grocery items, such as fruit and vegetables, to consumers. Consumers can then easily compare the prices of products, regardless of their size or brand.

Food and Grocery Code

The Food and Grocery Code came into effect on 3 March 2015. It is a voluntary code. This means that it only applies to retailers or wholesalers that have elected to be bound by the code by giving written notice to the ACCC.

The code governs certain conduct by grocery retailers and wholesalers in their dealings with suppliers. It has rules relating to grocery supply agreements, payments, termination of agreements, dispute resolution and a range of other matters.

The ACCC is responsible for enforcing the code.

The code provides for an additional framework for dealings between retailers or wholesalers and suppliers. It does not override the existing provisions of the Act and the ACL. In particular, the provisions relating to unconscionable conduct, misleading or deceptive conduct and misuse of market power continue to apply.

In addition, the code:

- requires retailers and wholesalers to act in good faith
- sets out the requirements of agreements between retailers or wholesalers and suppliers, including that they be in writing
- limits when retailers or wholesalers can unilaterally or retrospectively vary an agreement with a supplier, and requires any variation and the reason for it to be in writing
- sets out a dispute resolution process.

The ACCC has released [guidance on the code](#), which is available on the ACCC website. A list of the companies that have signed up to the code is also available there.

Legislative amendments

Franchising Code amendments

Changes to the mandatory Franchising Code of Conduct, which came into effect on 1 January 2015, are set out in more detail on page 111.

Voluntary codes of conduct

We support voluntary industry initiatives to develop codes that promote good business practices consistent with the Act. Effective codes potentially increase consumer protection and reduce regulatory burdens for business.

During 2014–15, we gave guidance to the Consumer Utilities Advocacy Centre and comparator websites in the Victorian Energy sector to assist them in developing a code of conduct for comparator websites that compare energy products.

During 2014–15, we engaged with Live Performance Australia about its independent review of the Ticketing Code of Practice. This code covers the ticketing industry for live performance events and outlines protections for consumers in the live performance industry.

Audits of code compliance

Under the Act, we can conduct audits to monitor trader compliance with prescribed industry codes.

Since 1 January 2011, we have served audit notices on 89 traders (15 on horticulture traders and 74 on franchisors) to produce documents.

The revised Franchising Code, which came into effect on 1 January 2015, has expanded the number of documents a franchisor is required to keep, create or publish. When conducting audits we can require franchisors to provide us with copies of these new documents.

In May 2015 the ACCC served audit notices on 12 franchisors to ensure compliance with the revised Franchising Code. These traders were selected because they had a significant number of code-related complaints against them or were randomly selected from industries that appear to generate a disproportionate volume of complaints.

Allowing collective bargaining in the public interest

The ACCC can grant protection from legal action for some arrangements or conduct that might otherwise breach the Act's competition provisions. This protection is available only on public benefit grounds.

For example, collective bargaining would ordinarily raise anti-competitive concerns, as businesses are generally required to act independently of their competitors on pricing and other terms of doing business. However, smaller businesses can face challenges when negotiating on their own. By sharing negotiating costs, they can often have more effective input into contracts and may have greater bargaining power if they act together.

During 2014–15, we considered 13 collective bargaining proposals under the authorisation and notification provisions of the Act, the majority of which involved small business participants such as newsagents, lottery agents, farmers and wagering businesses.

Other decisions relating to small business

Table 3.2: Overview of authorisations 2014–15

Total authorisations decided (excluding minor variations)	33
Small business authorisations decided	12

In addition to the small business collective bargaining authorisations mentioned, we also granted authorisation for a range of other small business arrangements, involving newsagents, jewellers, liquor licensees, oyster growers and power tool retailers.

We received and assessed more than 775 exclusive dealing notifications, a significant number of which involve small businesses—for example, to facilitate their participation in promotional and reward schemes or as part of a franchise supply arrangements.

Further information on authorisation, notification and collective bargaining appears under Goal 1.4.

2.5 Empowering consumers

2014–15 strategy: *Empower consumers to assert their rights under the Australian Consumer Law to secure fairer outcomes in the marketplace.*

Measure:

- Efficiency and effectiveness of actions to promote consumer safety and fair trading, and consumer awareness and assertion of their consumer law rights.

Educating and empowering consumers

Empowering and educating consumers about their consumer rights is central to the ACCC's work in protecting the interests and safety of consumers. The ACCC's educational campaigns also support consumers to navigate complex or difficult consumer choices to help them make smart choices.

We distribute targeted and general information, including tips and tools, through a wide range of channels to help consumers and small business. We liaise extensively with business, consumer and government agencies about the Act and our role in its administration.

Publicising enforcement activities

As well as guiding consumers and small businesses, we also seek to maximise the effect of enforcement actions. In many instances we conduct consumer education and business compliance initiatives alongside enforcement activities, each reinforcing the message of the other. A penalty and the reputational damage that follows a court judgment are powerful deterrents to other traders, encouraging compliance. Court cases can also highlight to consumers how they can use their rights.

We organise regular media appearances for the ACCC Chairperson and Commissioners in which they offer consumer tips and advice. We also provide many tips on our website, as well as videos and other tools. The ACCC has developed apps to give consumers mobile information and tools while they shop to help them to make informed choices.

Targeted campaigns

We also conduct specific campaigns to educate and empower consumers. For example, we issued 17 Scamwatch radar alerts on current scams to over 36 000 subscribers as part of our free alert service and served nearly 44 000 contacts via the hotline.

For examples of our actions to empower consumers, see:

- 'Consumer protection for Indigenous and vulnerable consumers' on page 77
- 'Other consumer protection education' on page 80
- 'Effective education' on page 105
- 'Our work with Australian Consumer Law partner agencies' on page 83.

National Consumer Congress

The 2015 National Consumer Congress was held on Friday 20 March 2015 in Sydney. This year's event was themed 'Preparing consumers for the future today: the upcoming review of the Australian Consumer Law' and was attended by approximately 190 delegates from consumer organisations, government, the legal profession, academia and business. The congress consisted of a number of panel discussions made up of experts in the fields of consumer protection, regulation, law and the digital economy. Panels discussed the operation of the ACL and issues in regulating consumer protection in an era of digital disruption and considered consumer rights in practice.

Ruby Hutchison Memorial Lecture

The 2014–15 Ruby Hutchison Memorial Lecture was hosted by Australian Securities and Investments Commission. The ACCC liaised with the commission to integrate this event with the National Consumer Congress.

Consumer Consultative Committee

The Consumer Consultative Committee provides a forum through which consumer protection issues can be addressed collaboratively between the ACCC and consumer representatives. It is chaired by Catriona Lowe.

Current membership includes: CHOICE, Consumer Action, Financial Counselling Australia, the Public Interest Advocacy Centre, the Indigenous Consumer Assistance Network, the Council of the Ageing, the Australian Communications Consumer Action Network, the Australian Council of Social Services, the Brotherhood of St Laurence, the Youth Action and Policy Association, the Adult Multicultural Education Service and the Consumers Health Forum.

In 2014–15, the Consumer Consultative Committee members continued to inform the ACCC's consumer protection work by providing information on current consumer issues, providing input into ACCC priority projects and supporting ACCC initiatives through their networks and communities. Members also participated in working groups to assist the ACCC in developing the National Consumer Congress program and a research project on debt collection practices.

Infocentre

The ACCC's contact centre (the Infocentre) is the initial contact point for enquiries and complaints on competition, consumer and fair trading issues. These contacts are received by telephone, letter and through forms on our websites (web forms).

The majority of contacts are;

- scam reports
- consumers seeking information about consumer guarantees
- complaints about business conduct that may breach the *Competition and Consumer Act 2010*.

Infocentre officers record information they receive from businesses and consumers in the ACCC complaints and enquiries database. This data is used throughout the ACCC for investigation, analysis and reporting purposes.

The Infocentre manages the process to escalate complaints for investigation and possible enforcement action. All complaints are assessed against the law and the ACCC compliance and enforcement policy and, where appropriate, escalated for further assessment or

investigation. The compliance and enforcement policy supports Infocentre officers in informing customers of current and enduring priorities.

Where contacts are beyond the jurisdiction of the ACCC or cannot be individually addressed, Infocentre officers refer customers to appropriate services or agencies and take every opportunity to educate the consumer or business on the options available to them.

In the case of scams, this education centres on how to protect yourself from scams. For complaints and enquiries, the emphasis is on consumer rights, business obligations, and the role of the ACCC. The template complaint letter, available on the ACCC website, is widely used by consumers in asserting their rights and publicly available guidance materials are frequently referred to in Infocentre advice.

Responding to enquiries and complaints

We have revised some aspects of Infocentre operations this year to ensure that we are as efficient and responsive as possible within the available resourcing, resulting in more contacts being served than in 2013–14.

The contact statistics for 2014–15 show:

- 153 261 contacts served by telephone or written response
- 30 427 web form responses made
- 1128 letter responses made
- 117 478 calls answered.

The service level statistics for 2014–15 show:

- 55 per cent of calls were answered within service level (60 seconds for most queues)
- 43 per cent of written responses were sent within 15 working days.

Escalation to investigations

Complaints we receive may go through a series of increasingly intensive investigations.

An initial investigation is the first stage of a detailed complaint assessment by the ACCC. It may result in escalation to an in-depth investigation. Alternatively, the matter may be resolved administratively or no further action may be taken.

The most serious matters may become in-depth investigations. Depending on the seriousness of the complaint, we may use our coercive investigative powers and resolve the complaint by using court enforceable undertakings or infringement notices or by initiating legal action.

We analyse the information contained in our complaints and enquiries database to establish complaint trends, identify issues for further inquiry and develop compliance responses.

Table 3.3: Complaint actions

Category	2013–14	2014–15
Contacts received (phone, email and letters)	202 363	260 343
Contacts recorded in the database	160 039	165 544
Under-assessments commenced	978	1 062
Initial investigations commenced	496	584
In-depth investigations commenced	131	100
Litigation	27	27

Table 3.4: Small business and franchising contacts

Category	2013–14	2014–15
About a small business matter	12 036	13 931
About a franchise matter	818	809
About an online trader or e-commerce	6 833	5 600

Table 3.5: Top 10 industries, excluding scams, for complaints and enquiries

Industry	2014–15
Non-store retailing	3498
Motor vehicle manufacturing	2078
Other electrical and electronic goods retailing	1922
On-selling electricity and electricity market operation	1904
Wired telecommunications network operation	1657
Supermarket and grocery stores	1544
Department stores	1534
Fuel retailing	1462
Other store-based retailing	1295
Car retailing	1257

Table 3.6: Top consumer and competition conducts

Conducts	2014–15
Fair trading and consumer protection including Australian Consumer Law	
18—Misleading or deceptive conduct	13 423
54—Guarantee as to acceptable quality	12 888
36—Wrongly accepting payment	2 929
104–108—Safety Standards	2 850
60—Guarantee as to due care and skill	2 714
29(1)(i)—False representation price	1 799
56–57—Guarantee relating to the supply of goods by description, sample or demonstration	1 575
55—Guarantee as to fitness for any disclosed purpose etc.	1 206
122–128—Recall of consumer goods	1 008
29(1)(a)—False representations of goods—standard, quality, value, grade, composition, style etc.	827
Effective competition and informed markets, Parts IV and IVB of the <i>Competition and Consumer Act 2010</i>	
Codes	682
Exclusive dealing	513
Misuse of market power	510

Table 3.7: Geographic location of contacts recorded in the national database

Location	ACL		Scams		Consumer protection		Restrictive trade practices		Industry codes		Other	
	2014-15	2014-15	2013-14	2014-15	2013-14	2014-15	2013-14	2014-15	2013-14	2014-15	2013-14	2014-15
New South Wales	16 157	36 123	42 066	52 280	738	735	119	180	7 480	7 378		
Queensland	13 036	28 558	29 579	41 594	465	546	134	160	4 033	4 790		
Victoria	16 108	24 487	33 291	40 595	604	669	108	170	5 748	6 195		
Western Australia	5 439	11 706	12 658	17 145	209	229	53	69	1 747	1 934		
South Australia	4 460	9 623	10 955	14 083	168	199	28	65	2 039	1 955		
Australian Capital Territory	2 297	3 917	6 086	6 214	83	116	10	6	983	958		
Tasmania	1 197	3 127	3 170	4 324	44	39	6	12	401	466		
Northern Territory	584	1 154	1 242	1 738	19	18	2	6	195	208		
Overseas or not specified	1 021	2 540	11 955	3 561	108	57	21	14	1 111	629		

Intelligence, analysis and reporting

The ACCC continually invests in intelligence gathering and analysis to inform strategic enforcement and compliance priorities.

We continue to perform trend analysis on complaints to identify new issues and threats. Regular analysis not only provides a safety net for complaints assessment but also enhances the ACCC's intelligence and industry knowledge and helps us identify new priority areas.

We work with state and territory consumer agencies to further develop all ACL regulators' intelligence capabilities and enhance cooperation, including through the Compliance and Dispute Resolution Advisory Committee. At the same time, we engage with our intelligence counterparts overseas to inform our understanding of emerging consumer and competition issues that are likely to affect Australia.

Performance summary

Protect the interests and safety of consumers and support fair trading in markets

Measures

- Outcomes and impact of actions to prevent or address consumer harm or unfair trading.
- Efficiency and effectiveness of actions to promote consumer safety and fair trading, and both consumer and small business awareness and assertion of their consumer law rights.

Our performance and the results we achieved are described in detail throughout the report on performance. In this section we provide a short summary and some highlights of our performance in relation to consumer protection and fair trading.

1. Outcomes and impact of actions to prevent or address consumer harm or unfair trading

In 2014–15, we:

- completed 80 in-depth investigations in ACL matters, including a majority in our priority areas
- intervened to address or prevent consumer harm and fair trading 43 times, including:
 - instituting 18 consumer protection proceedings in the Federal Court
 - accepting eight court enforceable undertakings to prevent or address consumer harm or unfair trading
 - receiving payment for 16 infringement notices in 12 matters totalling over \$522 600.
- achieved successful outcomes in 16 consumer protection cases, with penalties awarded totalling over \$20 million including:
 - one disqualification orders against people found to have breached the ACL, thereby preventing them from directing companies for a specific period of time
- to prevent unfair trading, prepared three updated guides for business on complying with the Act, which were visited 15 409 times online
- conducted 12 audits for compliance with industry codes.

To prevent harm to consumers from unsafe products, we:

- finalised 298 matters, resulting in two infringement notices totalling \$12 240 and two court enforceable undertakings, as well as a further court enforceable undertaking to implement a range of compliance initiatives (cases are outlined in appendix 8)
- conducted 2413 site visits, resulting in withdrawal of 99 product types and 38 product type recalls
- tested 112 'aqueous-based' cosmetic products, resulting in a number of recalls, and prompted 12 voluntary recalls of 37 product lines following survey and testing of consumer products for benzidine-based dyes (nearly 208 000 articles of clothing and linen).

Our efforts to quickly remove unsafe products from the marketplace to prevent harm to consumers saw:

- 100 per cent of recall notifications published within 48 hours of the supplier's requested time of publication
- 77 per cent per cent of mandatory reports involving serious injury or death assessed within seven days
- 22 detailed assessments of emerging product safety hazards
- four reviews on mandatory product safety standards completed.

2. Efficiency and effectiveness of actions to promote consumer safety and fair trading, and both consumer and small business awareness and assertion of their consumer law rights

We engage with consumers and small business through our website, social media and our Infocentre as well as by other means:

- We engaged directly with consumers and small businesses via the Infocentre, assessing complaints against our Compliance and Enforcement Policy for further action. There were:
 - 132 673 contacts served by telephone or received a written response
 - 24 094 web form responses
 - 1101 letter responses
 - 106 668 calls answered.
- Our websites were read more than ever before, with:
 - 2 535 370 visits to the ACCC website, including 6 487 003 page views
 - 573 028 visits to the Product Safety Australia website, including 1 257 335 page views
 - 1 279 783 visits to the Recalls website, including 4 422 981 page views
 - 1 581 857 visits to the Scamwatch website, including 3 229 101 page views.
- On social media there were:
 - 25 991 'likes' on the ACCC Consumer Rights Facebook page, with the content potentially reaching 6 884 827 users. The @accgovau Twitter account has 6592 followers, potentially reaching 3 556 426 users
 - 19 941 'likes' on the ACCC Product Safety Facebook page, with the content potentially reaching 5 069 279 users. The @accprodsafety Twitter account has 5482 followers, potentially reaching 6 603 908 users
 - 8772 followers on the Scamwatch Twitter account, potentially reaching 14 338 639 users
 - 3176 'likes' on the ACCC—Your Rights Mob Facebook page, with the content potentially reaching 353 574 users.
- We provided 118 588 copies of the *Little black book of scams* to vulnerable and disadvantaged consumers to help prevent them being scammed.
- A total of 10 000 users accessed the online tertiary program during 2014–15.
- There were 44 000 Scamwatch hotline contacts.
- A total of 7900 users accessed the online small business program during 2014–15.
- There were 2300 enrolments in the ACCC-sponsored, Griffith University delivered, franchising pre-entry education program during 2014–15.

Goal 3: Promote the economically efficient operation of, use of, and investment in monopoly infrastructure in the long-term interest of end users

Significant outcomes 2014–15

- Implemented **new arrangements for monitoring fuel prices**, including quarterly reports, and commenced **in-depth regional fuel market studies** in selected regional locations. Released the annual petrol monitoring report for 2013–14, providing more information for stakeholders and consumers on fuel pricing and consumer issues.
- Released the ***Airport monitoring report 2013–14***, finding that, despite relatively low passenger growth, monitored airports have reported substantial increases in aeronautical revenues and margins, but little change to their quality of service ratings.
- Identified that **greater competition in container stevedoring** is delivering benefits on the Australian waterfront and two key risks to improved performance—the potential impact of labour outcomes and port privatisations—and opportunities to further improve landside connections to container terminals.
- Ensured compliance with, and assessed variations to, **third-party access undertakings** covering the operation of the Australian Rail Track Corporation's Hunter Valley and interstate rail networks.
- Oversaw the transition to the **new Wheat Port Code regulatory framework**. Assessed port competition in different regions around Australia, considering if the full extent of regulation is necessary.
- Commenced a declaration inquiry into the **Superfast Broadband Access Service**.
- Continued **final access determination inquiries** into a number of telecommunications services, including those provided over Telstra's legacy copper customer access network.
- **Released reports** including:
 - the annual *ACCC telecommunications report 2013–14*
 - *Telstra's compliance with retail price control arrangements 2013–14*
 - *Telstra's Structural Separation Undertaking: Annual compliance report 2013–14*.
- Made **the first determination on the National Broadband Network** (NBN) regarding the amount of revenue NBN Co is allowed to earn via its prices over the term of its Special Access Undertaking.
- **Approved Telstra's revised Migration Plan**, which sets out how it will progressively migrate telephone and internet services to the NBN as it is rolled out.
- Completed the annual review of regulated charges for Water NSW for 2015–16.
- Published the ***ACCC water monitoring report 2013–14***.

Our regulatory objective

Our objective is to promote the long-term interests of end users through competition and efficient investment in some of Australia's key infrastructure services. The ACCC regulates access to bottleneck infrastructure and the price for that access. In addition, the ACCC monitors and reports on the price and quality of goods and services available in these monopoly markets and, where relevant, business compliance with industry-specific laws.

As some key infrastructure is provided by only one or a few suppliers, efficient access to infrastructure may be limited, thereby undermining competition and investment.

Appropriate regulation of infrastructure services can support effective competition in upstream and downstream markets, enhancing community welfare and encouraging efficient use of resources. For example, the ARTC's Hunter Valley rail network provides the transport link between the coal mines in the Hunter Valley region and the Port of Newcastle, from where coal is then shipped to customers. The Hunter Valley access undertaking, which the ACCC accepted in 2011, regulates access to the Hunter Valley rail network and is intended to promote efficiency and investment in the Hunter Valley rail network and export coal chain. Regulation can also promote the economically efficient operation and use of, and investment in, Australia's key infrastructure, thereby promoting the long-term interests of Australian consumers.

Functions

Our key functions include:

- regulating access to monopoly services that businesses need to compete in upstream or downstream markets
- regulating prices where competitive pressures on a supplier are not sufficient to produce efficient prices and protect consumers
- monitoring and enforcing compliance with industry-specific laws for bulk water, energy and communications services
- monitoring and reporting on the prices and quality of particular goods and services to inform industry and consumers about the effects of market conditions
- disseminating information to assist stakeholders in understanding the regulations that apply to and the structure and operation of infrastructure markets
- advising governments and policy agencies about how efficient regulatory outcomes and competitive, well-functioning markets can be achieved.

Strategies

Our strategies include to:

- deliver network regulation to promote competition and meet the long-term interests of end users
- improve the workability of emerging markets by enforcing market rules and monitoring market outcomes
- respond to government requests to provide monitoring reports on industries in highly concentrated and newly deregulated or emerging markets
- improve regulatory practices and processes, including by building relationships with domestic and international regulatory agencies to leverage their experience.

Industries and sectors

We also seek to build a culture of regulatory compliance and confidence in the operation of key infrastructure sectors. To achieve this we refine approaches to regulatory pricing methodologies to better reflect efficient costs and pricing signals, investigate major compliance matters in a timely manner and take appropriate enforcement action.

The following sections describe how we implemented our strategies in the sectors subject to regulation and monitoring:

- telecommunications
- water
- fuel
- airports
- container stevedoring
- wheat export
- rail
- postal services.

3.1 Delivering sound telecommunications regulation

2014–15 strategies:

Deliver network regulation to promote competition and meet the long-term interests of end users.

Improve the workability of emerging markets by enforcing market rules and monitoring market outcomes.

Measures:

- Timely, considered and evidence-based regulatory decisions based on constructive engagement and complemented by effective enforcement and compliance activities.
- Timely provision of accurate advice to government, including evaluating the effectiveness of frameworks such as access regimes.
- Accurate, targeted and accessible reports on industry and competitive conditions, including pricing practices.

Significant outcomes 2014–15

- We commenced a declaration inquiry into the Superfast Broadband Access Service.
- We continued final access determination inquiries into a number of telecommunications services, including those provided over Telstra's legacy copper customer access network.
- We released reports including the *ACCC telecommunications report 2013–14*, *Telstra's compliance with retail price control arrangements 2013–14* and *Telstra's Structural Separation Undertaking: Annual compliance report 2013–14*.
- We made the first determination on the National Broadband Network (NBN) regarding the amount of revenue NBN Co is allowed to earn via its prices over the term of its Special Access Undertaking.
- We approved Telstra's revised Migration Plan, which sets out how it will progressively migrate telephone and internet services to the NBN as it is rolled out.

Regulating the telecommunications sector

The ACCC is responsible for the economic regulation and monitoring of the communications, broadcasting and audio-visual content sectors.

Australians rely on the market economy to provide positive outcomes for communications services. However, the market economy is not perfect. Consumer welfare can be undermined, especially in some areas of communications where there are or have been monopoly suppliers of infrastructure and services.

When this occurs, our role is to provide effective telecommunications regulation that will protect, strengthen and supplement competitive market processes to improve the efficiency of the economy and increase the welfare of Australians.

Access regulation reduces barriers for competing operators that seek to enter and compete in downstream markets and invest in new infrastructure. As a result of regulating access to monopoly wholesale communications services, new entrants are often able to grow and innovate. Consumers then benefit in terms of both price and service quality.

The telecommunications industry is currently experiencing prolonged change due to technological developments, new consumer use patterns and, principally, structural change from the rollout of the NBN. Some of our key work therefore relates to the transition to the NBN.

At the same time, we continue to examine competition issues in the mobile and broadcasting markets, the audio-visual content sectors, spectrum developments, intellectual property markets and emerging technologies.

We have additional responsibilities under the following Commonwealth legislation:

- *Broadcasting Services Act 1992*
- *Copyright Act 1968*
- *National Broadband Network Companies Act 2011*
- *Radiocommunications Act 1992*
- *Telecommunications (Consumer Protection Services Standards) Act 1999*
- *Telecommunications Act 1997*.

More information on our communications role is detailed on the ACCC website and in publications such as *ACCCount*. We also publish a number of statutory reports specific to the communications industry—in particular, the annual ACCC telecommunications report. For more details on that report, see ‘Statutory reporting’ on page 135.

Reasonable access to telecommunication services

In regulating the telecommunications sector, we aim to establish reasonable access terms that:

- balance the interests of infrastructure owners, users and the broader public
- achieve any-to-any connectivity to allow calls originating from person A to reach person B, regardless of whether they are on different networks
- encourage efficient investment in, and use of, infrastructure
- promote competition for the long-term benefit of consumers and businesses.

Declaration of telecommunications services

The telecommunications access regime contained in the Act supports the development of a competitive telecommunications industry by allowing services to be ‘declared’—a process that determines which services are regulated by the ACCC. Once declared, a service must be supplied, on request, to other providers for use in their own services. This arrangement guarantees access to telecommunications services in the interest of competitive services to end users.

The ACCC can declare a service by:

- holding a public inquiry and allowing access providers, access seekers and consumers to comment
- accepting a special access undertaking from the provider of a service that effectively declares a particular service.

There is another method for declaring a service, which applies only to NBN Corporations (such as NBN Co). Where NBN Co supplies or intends to supply a service and publishes a Standard Form of Access Agreement for that service on its website, that service is declared.

Superfast Broadband Access Service—declaration inquiry

The ACCC commenced the Superfast Broadband Access Service declaration inquiry on 11 September 2014. The inquiry was commenced in response to competition concerns that may arise due to the technical limitations of vectored VDSL2 technology. For example, in some circumstances, competing vectoring systems may result in the degradation of end-user services.

The ACCC's inquiry followed the government's release of the Carrier Licence Conditions (Networks supplying Superfast Carriage Services to Residential Customers) Declaration 2014 and a range of other relevant processes and information, such as the government's response to the recommendations made by the NBN Panel of Experts (the Vertigan committee) and the Communications Alliance's VDSL2 and Vectoring Working Committee.

On 6 May 2015, the ACCC released a discussion paper seeking comment on whether a Superfast Broadband Access Service should be declared. The ACCC may declare a service if it is satisfied that it would promote the long-term interests of end users of carriage services or of services supplied by means of carriage services.

Submissions to the discussion paper were due by 19 June 2015. Nine submissions were received. The ACCC expects to consult on a draft decision on whether it should declare a Superfast Broadband Access Service in September 2015.

Access determinations

Once a service has been declared, the ACCC must make final access determinations for all services that it declares. These determinations enable us to set default price and non-price terms for declared services. The terms only apply where there is no commercial agreement between an access seeker and an access provider. They create a benchmark that access seekers can fall back on while still allowing parties to negotiate different terms.

We can also make interim access determinations in some circumstances. These interim determinations operate before final determinations are made. More details on all final access determination inquiries listed below are available on the ACCC website.

Services review—final access determination inquiry

Throughout 2014–15, the ACCC continued with its major inquiry into making final access determinations for a number of fixed line services provided over Telstra's legacy copper customer access network. These fixed line services enable retail telecommunications service providers to use Telstra's copper network and other fixed line infrastructure to provide a range of retail fixed line telephone and broadband services.

The seven services covered by the inquiry are:

- unconditioned local loop service
- line sharing service
- local carriage service
- wholesale line rental service
- public switched telephone network originating access service
- public switched telephone network terminating access service
- wholesale asymmetric digital subscriber line (ADSL) service.

The final access determinations also set prices for certain supplementary telecommunication services that have an unavoidable cost of providing voice and broadband services to end users using Telstra's copper network. These are service connection and disconnection charges and the internal interconnection cable charge necessary for access seekers to connect their equipment to Telstra's network.

On 11 March 2015, the ACCC released its draft decision on prices for the fixed line services. The decision was interim pending receipt of further information from Telstra and consideration of outstanding issues. On 29 June 2015, the ACCC released a further draft decision for a one-off uniform fall of 9.6 per cent to be applied from 1 October 2015 until 30 June 2019.

A number of factors have contributed to the proposed decline in prices from current levels. The most significant of these are new arrangements the ACCC has put in place which enable improved capital and operating expenditure estimates, a revised approach on cost allocation, adjustments made for NBN effects including the loss of economies of scale as services are migrated to the NBN, and a much lower cost of capital compared to when prices were last set in 2011.

The non-price terms for the fixed line services have been the subject of a combined consultation, discussed on page 130.

We expect the final decision on prices and non-price terms for the fixed line services to be released in September 2015.

The ACCC draft decision on fixed line connection charges is discussed under 'Non-price terms' on page 130.

Domestic transmission capacity service—final access determination inquiry

The domestic transmission capacity service (DTCS) is a high-capacity transmission service capable of carrying large volumes of voice, data and audio-visual traffic. It is often used by telecommunications companies to carry the combined traffic of separate services across long distances.

The ACCC is currently conducting a public inquiry into making a final access determination for the DTCS. The consultation on the DTCS final access determination includes the primary price terms and non-price terms and conditions specific to the DTCS. However, some of the non-price terms that apply to the DTCS have been the subject of a combined consultation on non-price terms (discussed on page 130).

The ACCC is using a domestic benchmarking approach in setting regulated prices for the DTCS. This continues the approach adopted in 2012, when the ACCC set regulated price terms for the DTCS for the first time. The domestic benchmarking approach uses prices on competitive routes and areas to 'benchmark' the prices to be applied on regulated non-competitive (declared) routes. The ACCC expects that transmission prices in competitive areas have reduced considerably since 2012, and this will be reflected in the benchmarked prices.

The ACCC is currently developing the regression model for the 2015 DTCS final access determination and has engaged an external consultant to provide advice. We are also consulting extensively with stakeholders in developing the regression model.

On 20 May 2015, we further extended the period for making the DTCS final access determination by six months to accommodate the additional time needed to develop the draft DTCS pricing model. We expect to release a draft DTCS final access determination on price terms in August 2015 before making a final decision on price and non-price terms in October 2015.

Mobile terminating access service—final access determination inquiry

The mobile terminating access service (MTAS) is a wholesale service that mobile network operators provide to other network operators to connect voice calls and SMS messages to the mobile network's consumers. The network that initiates the call or sends the SMS pays a fee to the mobile network that receives the call or SMS message. This price is generally passed on to the consumer in the form of retail charges.

On 6 May 2015, the ACCC released a draft decision in its MTAS final access determination inquiry. The draft decision sets a regulated price that mobile network operators may charge each other and fixed line network operators for receiving calls on their mobile network. In the draft decision, the ACCC proposes that the price of terminating calls on Australian mobile networks should be 1.61 cents per minute, reduced from 3.6 cents per minute. This is based on benchmarking the costs of terminating voice calls on mobile networks in a set of specified countries.

For the first time, the ACCC draft decision also sets a regulated price of 0.03 cents per SMS message that mobile network operators may charge for receiving SMS messages.

The draft decision proposes that the regulated prices for mobile voice and SMS termination take effect from 1 January 2016 to 30 June 2019.

The non-price terms for the MTAS have been the subject of a combined consultation discussed below. The ACCC intends to release its final decision on price terms and non-price terms for the MTAS in August 2015.

Non-price terms

Non-price terms and conditions range from commercial terms, such as billing and general dispute resolution processes, to the operational processes by which the declared services are to be accessed.

On 25 March 2015, the ACCC released its draft decision on the non-price terms and conditions that will be included in the fixed line services, the DTCS and the MTAS final access determinations. The draft decision also includes price terms for connection charges for fixed line telecommunication services.

The ACCC's draft decision sets out a targeted set of non-price terms that focus only upon those aspects of access where commercial agreements are less likely to result and where specific competition concerns are likely to arise. The ACCC did not receive evidence of widespread competition concerns significant enough to warrant a more interventionist and comprehensive approach.

As part of the non-price terms draft decision, the ACCC also released its draft decision on connection charges for three of the seven declared fixed line services. Connection charges are an unavoidable cost of providing voice and broadband services to retail consumers using the declared fixed line services.

The ACCC expects to release the final decision on non-price terms for the MTAS FAD in August 2015. Similarly, the ACCC will finalise its decision on non-price terms and connection charges for the fixed line services and the DTCS when it releases its decisions on prices for those services.

National Broadband Network Special Access Undertaking—first determination on the long-term revenue constraint methodology

The Special Access Undertaking accepted by the ACCC in December 2013 forms a key part of the regulatory framework for the NBN. The undertaking set the terms and conditions upon which NBN Co will supply NBN services to access seekers until June 2040.

The framework provides the ACCC with certain oversight over NBN Co's prices, expenditures and revenues as well as changes to their product offerings. The length of the undertaking provides NBN Co with long-term regulatory certainty so that it can recover efficient investment and expenditure.

During the first 10 years of the undertaking, the ACCC is required to make specific determinations annually. The ACCC must make a long-term revenue constraint methodology determination that includes an assessment of whether NBN Co's operating and capital expenditures comply with requirements set out in its undertaking. The ACCC must

also assess whether prices have exceeded the maximum regulated levels set out in the undertaking.

On 31 October 2014, NBN Co submitted regulatory information to the ACCC for the 2013–14 financial year, as required under the Special Access Undertaking, to allow the ACCC to conduct its long-term revenue constraint methodology assessment. NBN Co also submitted reports about its compliance with the prudency conditions and price controls set out in the Special Access Undertaking. On 10 December 2014, the ACCC formed a preliminary view on NBN Co's submitted regulatory information, as required under the Special Access Undertaking, and advised NBN Co that it did not intend to determine substitute amount of capital or operating expenditure in making its 2013–14 long-term revenue constraint methodology determination.

On 19 February 2015, the ACCC issued a draft determination on the long-term revenue constraint methodology. This was the first time the ACCC had made a determination on the methodology.

This draft determination specifies the amount of revenue NBN Co is allowed to earn in the 2013–14 financial year, the net value of NBN Co's regulated assets and the extent of NBN Co's unrecovered costs. The draft determination on price compliance was that NBN Co's prices had not exceeded the maximum regulated levels under its undertaking.

On 11 June 2015, the ACCC issued its final determination on the long-term revenue constraint methodology and price compliance for 2013–14. The final determination confirmed the assessments made in the draft determination that NBN Co's proposal satisfies the requirements set out in the Special Access Undertaking.

ACCC's role in market structure and equivalence

As part of our role in ensuring a smooth transition to the NBN, we oversee Telstra's Structural Separation Undertaking and migration plan. Together these outline how Telstra will progressively stop supplying telephone and broadband services over its copper and hybrid-fibre coaxial networks and migrate those services to the NBN.

Telstra's Structural Separation Undertaking also includes commitments to safeguard competition until the NBN is built and Telstra has migrated its fixed line services to the new network. Of particular significance is Telstra's commitment to providing equivalent service levels to wholesale customers and its own retail businesses.

Telstra's compliance with its Structural Separation Undertaking

The ACCC has continued to administer Telstra's Structural Separation Undertaking, which has delivered a number of positive outcomes in terms of equivalence for wholesale customers.

Where Telstra fails to meet its overarching commitment to provide outcomes for wholesale customers that are equivalent to those achievable by Telstra's retail businesses, it must submit a proposal to the ACCC outlining the steps it proposes to take to remedy the failure (a rectification proposal).

Following industry consultation, the ACCC accepted rectification proposals from Telstra in September and October 2014 relating to:

- a small number of instances where Telstra retail was able to supply an ADSL service in circumstances where Telstra wholesale service qualification requests indicated that ADSL or line sharing service (LSS) was unavailable due to 'excess transmission loss'
- Telstra's comparative performance in repairing wholesale and retail faults in relation to basic telephone services.

Telstra's failure to prevent unauthorised disclosure of the confidential or commercially sensitive information that it receives from wholesale customers in the course of supplying regulated services has been an ongoing compliance issue. The ACCC has continued to monitor the effectiveness of Telstra's measures to remediate its information technology (IT) systems and processes to better safeguard against the disclosure of protected wholesale customer information. This includes requiring external verification of the program of work that Telstra has undertaken to ensure that its IT systems are compliant with the information security obligations in its Structural Separation Undertaking.

Renegotiation of the Telstra/NBN Co definitive agreements

The definitive agreements are the commercial agreements between Telstra and NBN Co that govern, among other things, the terms on which Telstra will disconnect fixed-line customers from its copper and hybrid-fibre coaxial networks.

Following the government's changes to the NBN policy there was a shift from a fibre-to-the-premises (FTTP) model to a multi-technology mix (MTM) model that includes fibre-to-the-node (FTTN), fibre-to-the-building (FTTB) and hybrid-fibre coaxial cable networks.

To facilitate the policy shift to an MTM network rollout, Telstra and NBN Co negotiated a number of amendments to the definitive agreements. The main change to the original agreements relates to the approach taken to Telstra's copper and hybrid-fibre coaxial networks. Under the original definitive agreements, Telstra was required to progressively disconnect premises that are connected to its copper and hybrid-fibre coaxial broadband networks as the NBN is rolled out. Under the revised agreements, Telstra will continue to disconnect premises. However, where NBN Co uses the copper and hybrid-fibre coaxial networks to deliver an NBN service, Telstra will progressively transfer ownership of the relevant copper and hybrid-fibre coaxial assets to NBN Co, at no additional cost to NBN Co.

The ACCC was regularly briefed on a confidential basis as the negotiations progressed and provided its views on competition and consumer issues. While the ACCC examined the original definitive agreements as part of its assessment of Telstra's Structural Separation Undertaking, it was not asked to approve the revised DAs, which were legislatively authorised in December 2014.

Assessment of Telstra's revised Migration Plan

The Migration Plan contains the process that Telstra will use to disconnect telephone and internet services from its copper and hybrid-fibre coaxial networks as part of the migration to the NBN. The original Migration Plan was accepted by the ACCC as part of Telstra's Structural Separation Undertaking in early 2012.

On 20 March 2015 Telstra lodged its revised Migration Plan, which reflects the renegotiated commercial arrangements with NBN Co and the government and the move to a multi-technology mix NBN. The revised Migration Plan also modifies some of the migration and disconnection arrangements that are intended to promote service continuity.

On 1 April 2015 the ACCC released a discussion paper on the revised Migration Plan. We subsequently brought to Telstra's attention concerns raised in the course of our consultation process and requested Telstra to consider making several amendments to benefit the consumer migration experience.

Telstra submitted an amended version of its revised Migration Plan on 5 June 2015, which included several minor amendments. The main change was to extend, on a temporary basis, the timeframes within which fire alarm and lift phones can be switched to the NBN before the lines over which they are supplied become subject to managed disconnection. We published a copy of the amended version of the revised Migration Plan on our website but did not receive any further submissions.

On 26 June 2015 the ACCC approved Telstra's revised Migration Plan. Our role in approving the revised Migration Plan was confined to assessing whether it is consistent with the legislative requirements, meaning that we did not have discretion to seek improvements that went beyond these requirements.

Improving NBN migration processes

The ACCC has been working with government, NBN Co, Telstra and industry to improve NBN migration processes to ensure that end users experience minimal disruption and can access services during and the following the NBN transition period. This work includes:

- providing a public submission to the Department of Communications' consultation process on the Migration Assurance Policy
- participating (as an observer) in the Communications Alliance working committee to develop industry-led processes and solutions to address key consumer migration issues
- participating (as an observer) in the Communications Alliance working committee to develop transfer processes for the NBN, as these processes have a bearing on competition and consumer outcomes
- encouraging industry to develop the necessary operational processes to support consumers migrating to NBN Co's MTM networks.

Improving competition on broadband performance

The ACCC continued to consider means to improve competition on network performance with the objective of ensuring visibility over the performance of fixed broadband access networks (including those operated by NBN Co and retail broadband services offered by RSPs to consumers over those networks); giving consumers independent and reliable information on fixed broadband service performance to assist them in their purchasing decisions; and promoting effective competition on the basis of service performance between RSPs.

Industry-specific codes and rules

The ACCC is also involved in contributing to reviews of a number of industry-specific codes and overseeing a number of record keeping rules.

Telecommunications Consumer Protections Code

This Communications Alliance Telecommunications Consumer Protections Code is a code of conduct designed to ensure good service and fair outcomes for all consumers of telecommunications products in Australia. All carriage service providers that supply telecommunications products to customers in Australia are required to observe and comply with the code.

The code is registered by the Australian Communications and Media Authority (ACMA), which has a range of enforcement powers to deal with breaches. Compliance with the code is monitored by Communications Compliance.

In October 2014 the Communications Alliance commenced a public consultation on a revised code (together with consequential amendments to a package of other codes). Among other things, the proposed changes would weaken obligations on carriage service providers to ensure that their advertising practices are clear and accurate.

In November 2014 the ACCC made a submission to the review indicating that it was 'extremely disappointed by the extent of the proposed changes'.

While the ACCC supports measures that will reduce unnecessary reporting requirements on industry, it does not support the removal of obligations on industry members that weaken consumer protections across the sector. The review of the code is ongoing and the ACCC continues to liaise with the Communications Alliance on changes to the code.

Copyright Notice Scheme Industry Code

The Communications Alliance has developed an industry code to address online copyright infringement in Australia. The Copyright Notice Scheme Industry Code essentially sets out a scheme that includes a series of three escalating notices to be sent by the internet service providers to alleged infringing account holders after receiving an infringement report from a copyright holder. The scheme also sets out an institutional structure which includes a Copyright Information Panel to generally administer the scheme, an Adjudication Panel to handle a process for challenging notices and a third-party independent body to carry out the audit and certification of the evidence-gathering process under code.

On 19 March 2015 the Communications Alliance approached the ACCC seeking feedback on the draft code. This step is required for registration of the code with ACMA under the *Telecommunications Act 1997*. On 23 April 2015, the ACCC provided the certification of consultation to enable the code to be registered with ACMA. The proposed commencement date of the code is 1 September 2015 or on a date to be determined by the Copyright Information Panel.

The ACCC will be involved in further discussions with the Communications Alliance at the implementation stage of the code.

Building Block Model Record Keeping Rule

Under the Act, the ACCC can make a rule on record keeping and require carriers and carriage service providers to comply with that rule. We can specify what records are kept, how reports are to be prepared and when these reports are due to the ACCC.

The Building Block Model Record Keeping Rule requests information on forecast and actual data from Telstra relating to operating expenditure, capital expenditure, depreciation and demand that is required to effectively implement the fixed line services model. The fixed line services model is used as part of the ACCC's building block model approach to determine prices for the declared fixed line services and wholesale ADSL.

The ACCC varied the rule following the consultation process that started in May 2013. The final varied rule contained minor changes to the draft proposed in May 2013. These changes do not require Telstra to provide the ACCC with any information additional to that outlined in the proposed variation.

Revocation of the Bundled Service Record Keeping Rules

The [Bundled Services Record Keeping Rules](#) required Telstra to provide quarterly reports to the ACCC on the various types of bundled services that it offered to residential customers. The ACCC issued the record keeping rules to assess the effects of bundling on competition in telecommunications markets.

On 2 July 2014, in response to a request from Telstra, the ACCC decided to revoke the rules. In place of the rules, Telstra will provide the ACCC with annual briefings on its bundling practices. Telstra has agreed to proactively engage with the ACCC on its bundling practices and provide briefings to the ACCC before releasing new bundled packages.

Telstra is therefore no longer required to report under the Bundled Services Record Keeping Rules.

Access to Telstra exchange facilities

The ACCC made the Telstra exchange facilities record keeping rule in July 2008 in response to complaints about delays in Telstra's exchange queuing system. The purpose of the rule is to monitor queuing and capping at Telstra's exchanges and provide transparency and oversight about these processes.

On 9 May 2014 the ACCC released a consultation paper on the future operation of the rule. After considering the submissions from four stakeholders, on 14 July 2014 the ACCC remade the rule to apply for a further three years until July 2017. Only minor drafting changes were applied and the rule reporting requirements were not changed.

NBN Services in Operation Record Keeping Rules

In October 2014 the ACCC introduced new record keeping rules relating to demand for the NBN. The NBN Services in Operation Record Keeping Rules require NBN to provide information on the number of services in operation on its network and the amount of capacity being acquired by retail service providers.

With the NBN set to become a key feature of the Australian telecommunications market going forward, it is crucial for the ACCC to be able to monitor how competition develops over this network. The information obtained under these record keeping rules will help the ACCC to provide oversight by providing information on the rate and level of take-up of different NBN access services and the resulting market shares by retail service providers using the NBN.

NBN was previously only required to maintain records in relation to FTTP, fixed wireless and interim satellite services. This was extended to services connected to NBN's FTTB network in February 2015. Its FTTN network is expected to be captured in future.

The ACCC is currently giving consideration to publishing the aggregated data that is obtained under these record keeping rules to provide transparency on the development of competition in the market for NBN services.

Statutory reporting

In response to statutory reporting requirements, the ACCC released the following reports, all of which are available on the website and discussed further:

- [ACCC telecommunications report 2013–14](#)
- [Telstra's compliance with retail price control arrangements 2013–14](#)
- [Telstra's Structural Separation Undertaking—Annual compliance report 2013–14.](#)

ACCC telecommunications report 2013–14

In March 2015, we published the *ACCC telecommunications report 2013–14*. It comprises two reports: a report on telecommunications and competitive safeguards and a report on changes in prices paid for telecommunications services in Australia.

The report on telecommunications competitive safeguards for 2013–14 reported on:

- our role in the transition to an NBN and our regulatory and market monitoring activities in content markets and intellectual property
- the key consumer trends in 2013–14, namely:
 - consumers are using their mobile phones more intensively. Mobile handset downloads in the June 2014 quarter were double the levels in the same quarter in 2013. Further, more consumers relied on their mobile phone for voice calls, with a quarter of the adult population owning a mobile phone but no home landline telephone

- mobile and wireless subscriptions started to reach saturation levels. Despite the increase in usage, mobile and wireless subscriptions appear to be reaching saturation levels. After experiencing very strong growth until 2012, wireless broadband subscriptions fell by 3 per cent in 2013–14. The number of mobile phone subscribers continued to plateau, increasing by less than 1 per cent during the year
- consumers continued to download more data. Consumers downloaded significantly more data during the year across all platforms. Fixed line broadband continued to account for 93 per cent of all data downloaded—the same as last year. This suggests that consumers use different services for different activities, preferring fixed line broadband for data-intensive activities. The increase in data downloaded is also consistent with evidence that Australians are embracing online content, such as streaming movies, music and on-demand television services.

The report on changes in prices paid for telecommunications services in Australia 2013–14 noted that:

- Australian consumers have benefited from lower prices for fixed-voice, mobile and internet services over time, with the prices that consumers paid for telecommunications services falling by 2.7 per cent in real terms in 2013–14
- the average real prices of landline and mobile voice calls have now fallen by around 50 per cent since 1997–98.

The *ACCC telecommunications report 2013–14* is available on the ACCC website.

Report on Telstra's compliance with retail price control arrangements 2013–14

Until recently, each year the ACCC was required to monitor and report to the Minister on the adequacy of Telstra's compliance with retail price control arrangements that apply to certain fixed-voice telephony services. The retail price control arrangements were set out in the Telstra Carrier Charge—Price Control Arrangements, Notification and Disallowance Determination No. 1 of 2005 (as amended).

On 31 October 2014 the ACCC reported to the Minister that it was satisfied with Telstra's compliance with its obligations for 2013–14.

On 18 March 2015, as a result of a number of regulatory reviews undertaken for the Department of Communications that indicated the price controls had reduced in relevance over time, consistent with advice from the ACCC over a number of years, the Minister revoked the retail price control arrangements. The Minister for Communications retains retail price control powers and can reintroduce retail price controls at any time.

Telstra's Structural Separation Undertaking—Annual compliance report 2013–14

On 13 May 2015 the ACCC's report on Telstra's compliance with its commitments under the Structural Separation Undertaking during the 2013–14 financial year was tabled in parliament. The report noted that Telstra continued to demonstrate a commitment to increasing its level of compliance with its Structural Separation Undertaking and respond to breaches in a positive manner.

Telstra breached its Structural Separation Undertaking obligations to:

- ensure equivalence between its retail and wholesale operations in the rectification of basic telephone service faults and the ADSL/LSS service qualification process
- properly ring-fence confidential or commercially sensitive wholesale customer information, which is provided to Telstra in its capacity as access provider of regulated services, from being disclosed to its retail business units.

The report also outlines a number of instances where Telstra breached its Migration Plan. Telstra's Migration Plan sets out how Telstra will disconnect customers from its copper and hybrid-fibre coaxial networks and commence supplying services using the NBN. The breaches were largely a result of Telstra adopting alternative interim arrangements, with the ACCC's consent, to ensure a more positive experience for end users that migrate to the NBN.

Overall, Telstra's level of compliance with the Structural Separation Undertaking is consistent with it maintaining a suitable level of commitment and resourcing to achieve compliance with its undertaking obligations and acting reasonably to redress breaches as they are brought to light.

The ACCC's response to the breaches has been to work with Telstra to stop the conduct, reducing its effect, and ensure that steps are taken to prevent recurrence.

Information to assist stakeholders

We publish the latest regulatory reports, determinations and issues papers on our website, along with up-to-date information on ongoing processes such as:

- implementation of Telstra's Structural Separation Undertaking and Migration Plan, including implementation of the independent telecommunications adjudicator scheme
- access determination inquiries
- lodgment of access agreements by carriers or carriage service providers relating to access to a regulated service.

These papers help inform stakeholders about key industry developments and current consultations.

Summaries of data obtained from some of the record keeping rules issued to telecommunications companies are also published on the ACCC website. These summaries assist stakeholders to engage effectively in the regulatory process.

The ACCC also provides consumer information about the NBN on a variety of topics, including:

- the compatibility of medical and security alarms with the NBN
- the disconnection of old phone and internet networks after the NBN becomes available in a particular area
- consumer rights regarding phone and internet services
- information about choosing telecommunications products.

The continued rollout of the NBN across Australia will change how consumers' landline phone and internet services are delivered. In March 2015, we released a factsheet for consumers outlining the key steps in moving to the NBN.

Information for consumers and small business on the NBN can be found on the ACCC website.

Enforcement and compliance

Investigations

During 2014–15, the ACCC investigated several allegations about potential breaches of the Act and the *Telecommunications Act 1997* in telecommunications markets. In particular, we considered misuse of market power allegations under the telecommunications-specific competition rules of the Act, potential breaches of Telstra's Structural Separation

Undertaking and allegations of non-compliance with the 'level playing field' provisions in Parts 7 and 8 of the *Telecommunications Act 1997*.

The ACCC conducted eight investigations concerning the 'level playing field' provisions (details on the TPG investigation are referred to in the 'Superfast carriage services' case study on page 140). All investigations either found that the respective parties were compliant or resulted in steps being taken by the parties to ensure improved compliance going forward.

Assistance to government and agencies

Australian Government's independent cost-benefit analysis and review of regulation

The cost-benefit analysis and review of regulation (the Vertigan review) examined the appropriate regulatory framework for Australian's future broadband market and, in particular, NBN Co's role within that market.

As part of the review, the Vertigan panel released the following reports in July, August and October 2014:

- the [statutory review](#) under s. 152EOA of the Act
- the [independent cost-benefit analysis of broadband](#) and associated papers
- the [NBN market and regulatory review](#).

On 11 December 2014, the government released a policy paper setting out the government's response to the Vertigan review.

The ACCC continues to engage with the government on the possible amendments to the regulatory framework arising from the Vertigan review.

NBN non-commercial services funding options

As part of the government's response to the Vertigan review, the Bureau of Communications Research (BCR), an independent research unit within the Department of Communications, was asked to consider funding options to rollout the NBN in regional Australia. Specifically the BCR was asked to:

- assess the losses expected to be incurred from building and operating non-commercial services (satellite and fixed wireless services) in regional areas
- consider funding these losses via contributions from owners of high-speed broadband access networks.

In June 2015 the ACCC made a submission to the BCR consultation paper on NBN non-commercial funding options.

The ACCC anticipates further engagement with the BCR as part of the process of developing an appropriate funding model and preparing advice to government.

Spectrum competition limits

The Australian Communications and Media Authority (ACMA) is responsible for managing spectrum under the *Radiocommunications Act 1992*. When ACMA is allocating spectrum licences, the Minister for Communications may direct it to impose limits (known as 'competition limits') on the amount of spectrum that a person can use under allocated licences. The Minister for Communications may seek the ACCC's advice about the competition limits that may be appropriate. The decision whether to impose competition limits is a matter for the Minister for Communications.

In March 2015, the ACCC received a request for advice on whether competition limits for a proposed auction of 1800 MHz spectrum in regional areas should be imposed.

The 1800 MHz band is highly sought after for 4G and mobile broadband services. In metropolitan Australia, mobile network operators and state rail operators already use the spectrum. In regional areas, the spectrum is mainly used for fixed point-to-point connections to provide backhaul to meet universal service obligations, and also by mining and rail industries. Some spectrum is unused.

ACMA proposes to auction the 1800 MHz spectrum in November 2015.

In April 2015, the ACCC invited submissions on a range of issues regarding the use of the spectrum. After considering the views we received, we provided advice to the Minister for Communications in May 2015.

Information disclosure by NBN Co

In light of NBN Co's shift to the multi-technology mix model, Telstra will have closer involvement in the planning and rollout of the NBN. Through this, NBN Co will provide Telstra with detailed information about the design and construction of the network, and activation of services at premises.

To ensure that Telstra does not gain, or is not perceived to gain, an unfair competitive advantage the government has proposed the imposition of a carrier licence condition on NBN Co, among other measures, to provide for information symmetry between Telstra and retail service providers in relation to NBN rollout and related information. The Department of Communications requested the ACCC to consult with interested parties on the proposed carrier licence condition, including on the information sought to be disclosed. The ACCC publicly consulted in March and April 2015 on the information that NBN Co should disclose about the rollout of its network. We received feedback from a number of telecommunications companies.

The ACCC provided a report on the outcomes of the consultation process to the Minister for Communications, which is now available on our website.

In particular, the ACCC recommendations include that:

- interested stakeholders receive regular reports on key information about the rollout of the NBN
- NBN Co regularly consults about information disclosure to ensure that these reports remain relevant to stakeholders
- NBN Co maintains a list of all of the documents that it provides to Telstra and makes these documents available on request to relevant stakeholders
- NBN Co does not disclose information about a customer's choice of NBN service provider to Telstra, or to other service providers, except on a case-by-case basis where this is needed to resolve a migration problem for the customer.

The ACCC considers that from a competition perspective it is important to place interested stakeholders in an equivalent position to Telstra in the transition to the NBN. Consumers will in turn benefit from stronger competition.

We will continue to assist the government in its consideration of a carrier license condition for NBN Co.

Case study

Superfast carriage services

A superfast carriage service enables end users to download communications where the download transmission speed of the carriage service is normally more than 25 megabits per second and the carriage service is supplied using a line to premises that the end user occupies or uses.

The ACCC investigated a complaint that TPG Ltd's plans to connect large apartment buildings in metropolitan areas to its existing fibre networks and to use FTTB technology to supply superfast carriage services to residents of those buildings would be in breach of the NBN level playing field provisions in the *Telecommunications Act 1997*.

The NBN level playing field provisions prohibit the use of networks other than the NBN that were built, upgraded or extended by more than one kilometre after 1 January 2011 to supply superfast carriage services to small business or residential customers unless the network operator supplies a Layer 2 bitstream service on a wholesale-only basis and is subject to open access obligations.

On 11 September 2014, the ACCC announced that it would not take any action. We concluded that there was insufficient evidence to prevent TPG implementing its plans to extend its existing fibre networks to supply superfast carriage services in apartment buildings, under the level playing field obligations in Parts 7 and 8 of the *Telecommunications Act*.

The ACCC reached this decision based on information and evidence that TPG's networks were capable of supplying superfast carriage services to small business or residential customers at 1 January 2011 and confirmation that TPG was not extending the footprint of these networks by more than one kilometre.

At the same time, the ACCC commenced the superfast broadband access service declaration inquiry and the Minister for Communications announced that the department would commence consultation on new Carrier Licence Conditions (Networks supplying Superfast Carriage Services to Residential Consumers) that would apply to TPG and other similar carriers while the ACCC conducts the inquiry.

The ACCC released a discussion paper for the inquiry in May 2015 and intends to release a draft decision for further consultation in September 2015.

3.2 Increasing the efficiency of Murray-Darling Basin water markets

2014–15 strategies:

Improve the workability of emerging markets by enforcing market rules and monitoring market outcomes.

Respond to government requests to provide monitoring reports on industries in highly concentrated and newly deregulated or emerging markets.

Improve regulatory practices and processes, including by building relationships with domestic and international regulatory agencies to leverage their experience.

Measures:

- Timely, considered and evidence-based regulatory decisions based on constructive engagement and complemented by effective enforcement and compliance activities.
- Accurate, targeted and accessible reports on industry and competitive conditions, including pricing practices.

Significant outcomes 2014–15

- We completed the review of regulated charges for Water NSW for 2015–16.
- We finalised the *ACCC water monitoring report 2013–14*.
- We commenced the water charges review.

Our water market activities

The *Water Act 2007* aims to promote efficient water markets and sustainable use and management of water resources and water services infrastructure in the Murray-Darling Basin (the basin). It was introduced because of concerns about the impact of irrigation on the environment, over-allocation of water and increasing water scarcity.

Our role helps to ensure that an efficient water market functions in the basin. Under the Water Act, we are responsible for regulating and monitoring a range of water charges. We also monitor and enforce compliance with water market and charge rules made under the Water Act. The rules:

- help irrigators to transform their irrigation right with an operator into a separately held water access entitlement (transformation arrangements)
- regulate the maximum fee that an operator can impose on an irrigator who terminates their access to an irrigation network
- require infrastructure operators, water authorities and government departments to publish information about their regulated charges and, in some instances, their infrastructure-related investment plans
- restrict an infrastructure operator from imposing different charges for the same infrastructure service, in some circumstances

- allow the ACCC or another accredited regulator to set the regulated charges of specific water infrastructure operators.

Access terms, conditions and prices

Under the Water Charge (Infrastructure) Rules 2010, the ACCC is currently the regulator responsible for approving or determining regulated charges for Water NSW (formerly State Water).

The ACCC's 2014 determination set a mechanism for calculating charges for 2014–15 through to 2016–17. Water NSW is required to update its volume data early in each calendar year. These updates enable the ACCC to work out under-recovery or over-recovery of revenue in line with the 'unders and overs mechanism' introduced by the 2014 determination.

The Water Charge (Infrastructure) Rules also provide for an annual review of charges under which the ACCC or accredited regulator can vary the charges that are set under the original determination where it is reasonably necessary to do so, having regard to changes in the demand or consumption forecasts or for price stability.

On 5 June 2015, the ACCC released its final decision on the regulated charges that Water NSW is able to levy for infrastructure services in the basin during 2015–16. The decision was made following public consultation on a draft decision published in April 2015. The final decision sees an increase in charges in some valleys in 2015–16. The ACCC found that a range of factors are influencing prices for Water NSW customers, primarily low water availability in 2014–15. The ACCC anticipates that the charges determined will increase bills for Water NSW customers in the Border, Peel, Lachlan and Macquarie valleys, the Fish River Water Supply Scheme and the Lowbidgee Flood Control and Irrigation District. Bills for customers in other valleys are expected to either fall or remain at 2014–15 levels.

Monitoring activities

Water monitoring report

The ACCC monitors regulated water charges, transformation arrangements and compliance with rules made under the Water Act across the basin. We report annually on the monitoring results.

In April 2015, we presented our fifth annual report, the *ACCC water monitoring report 2013–14* to the Parliamentary Secretary to the Minister for the Environment and released the report publicly the following month.

The report, which drew on information from operators and basin state water departments, includes key findings, a summary of market conditions and analysis of ACCC monitoring of charges, transformation and rule compliance. The report notes that the Water Act and associated rules have resulted in significant improvements to the scope and functionality of water markets in the basin.

However, there are still significant differences in the water charging regimes applied across the basin.

The ACCC water monitoring report is available on the ACCC website.

Enforcing industry-specific laws

The ACCC enforces the water market and water charge rules made under the Water Act. In carrying out this role, it pursues a risk-based approach aimed at fostering a culture of compliance among regulated water stakeholders and minimising the risk of their policies and practices causing harm to water users or impeding the functioning of water markets.

Over 2014–15, the ACCC continued to receive and to investigate a steady flow of water market and water charge rule related complaints and inquiries.

Operators continue to proactively approach the ACCC to seek guidance on new policies that may raise compliance concerns with the rules. This has helped to enhance their understanding and application of rules under the Act and reduce regulatory risk.

The ACCC continues to work with basin state water departments on the information they publish on their regulated water planning and management charges.

Timely advice to government and agencies

Review of Water Act 2007 and water charge rules review

In 2014, an independent panel reviewed the *Water Act 2007*. The ACCC made a submission and presented to the panel on its functions under the Water Act as part of that process. The panel's report made two key recommendations in relation to the ACCC:

- that the ACCC should conduct a review of the water charge rules (recommendation 11)
- that an assessment should be made of a possible transfer of water trading rule functions (including enforcement) from the Murray-Darling Basin Authority to the ACCC (recommendation 18).

On 19 December 2014, the panel's report was tabled in parliament together with an interim government response that committed the ACCC to conducting a review of the water charge rules.

The ACCC has commenced its review of the water charge rules. In May 2015, the ACCC published an issues paper seeking public submissions on a range of issues, including:

- the consistency of water charging regimes across the basin
- the appropriateness of the tiered regulatory approach for infrastructure charges
- ensuring that the rules are able to appropriately regulate charges imposed by intergovernmental entities such as the Murray-Darling Basin Authority
- the interaction between the rules and third-party access regimes
- options for improving the effectiveness of the rules
- the clarity of drafting in the rules and the potential for their combination into one instrument.

The ACCC will provide its advice on amendments to the water charge rules (including proposed rule amendments) to the Minister by the end of December 2015. The ACCC will be holding public forums to get stakeholder input into formulating our advice.

Review of water information requirements

In its interim response to the Water Act review in December 2014, the government also committed to establishing the Interagency Working Group on the Review of Water Information Reporting Burdens (chaired by the Bureau of Meteorology). The terms of reference required the working group to examine current reporting requirements, consider the benefits of existing information products and explore opportunities for streamlining water information reporting requirements.

During the first half of 2015, the ACCC participated in the working group, assessing the level of duplication and regulatory burden placed on industry by all members of the working group and identifying options to reduce regulatory burden by 20 per cent or more. The working group provided its final report to the Parliamentary Secretary on 29 June 2015.

Informing stakeholders

In 2014–15 we kept stakeholders informed by:

- releasing an issues paper to facilitate stakeholder input into the ACCC review of the Commonwealth water charge rules and advice to the Minister on possible amendments to these rules
- releasing key documents relevant to the ACCC's first annual review of Water NSW's regulated charges for water infrastructure services in the basin
- publishing the *ACCC water monitoring report 2013–14*
- responding to ministerial correspondence and public complaints and inquiries within agreed timeframes
- making a submission to the Department of the Environment's review of the *Water Act 2007*.

3.3 Fuel price monitoring

2014–15 strategy: *Respond to government requests to provide monitoring reports on industries in highly concentrated and newly deregulated or emerging markets.*

Measure:

- Accurate, targeted and accessible reports on industry and competitive conditions, including pricing practices.

Our role in fuel price monitoring

The ACCC monitors the downstream petroleum industry, including the refining, importing, wholesale and retail sectors, under Part VIIA of the Act. We keep abreast of industry developments and provide timely information and advice to government and the public. Our fuel monitoring program has three objectives:

- to improve consumer awareness by increasing the information available about the petrol industry
- to comply with the direction of the Minister for Small Business by analysing prices, costs and profits in the downstream petroleum industry
- to focus on areas where competition may be less effective and on industry conduct that the ACCC may need to consider more closely.

New ACCC fuel monitoring arrangements

In December 2014 the Minister for Small Business, the Hon. Bruce Billson MP, gave the ACCC a new direction to monitor prices, costs and profits of unleaded petroleum products in Australia for a period of three years. Instead of providing an annual report to the Minister, the ACCC will provide at least four quarterly reports a year. The new arrangements will enable the ACCC to undertake more timely and targeted monitoring and analysis of particular topics and fuel markets that are of concern to consumers.

The ACCC will produce two types of reports:

- quarterly 'macro' reports on petrol price movements and the overall drivers of Australian fuel prices
- market studies that look at 'micro' issues in considerable depth. These will include an analysis of the price drivers of petrol in three regional markets in 2015.

Quarterly petrol monitoring reports

The first two quarterly 'macro' reports on Australian unleaded petrol prices were released in February 2015 (which covered the half year from July to December 2014) and May 2015 (which covered the March quarter 2015). The reports noted:

- Following large falls in international crude oil and refined petrol prices in the second half of 2014, retail petrol prices in the five largest cities (Sydney, Melbourne, Brisbane, Adelaide and Perth) fell to their lowest price in real terms in over 15 years. Seven-day rolling average prices fell from a high of around 158 cents per litre (cpl) in July 2014

to a low of around 103 cpl in early February 2015—in real terms the lowest price since June 1999.¹

- These historically low prices were short lived, as subsequent increases in international crude oil and refined petrol prices led to increases in average petrol prices in the larger cities. By the end of the March quarter 2015, over half of the 55 cpl decrease since July 2014 had been reversed.
- Retail petrol prices in regional locations did not decrease by as much as in the larger cities, resulting in the differential between average prices across all regional locations and average prices in the five largest cities increasing from 5.4 cpl in June 2014 to 17.5 cpl by December 2014.
- In the March quarter 2015, regional petrol prices in aggregate did not increase by as much as international refined petrol prices, resulting in the city–country differential narrowing to 1.9 cpl in March 2015.

As retail prices fell significantly in the December quarter 2014, there was a long period in the eastern capital cities (Sydney, Melbourne, Brisbane and Adelaide) when petrol price cycles did not occur. In February and March 2015, price cycles resumed in these cities, although the cyclical pattern was more evident in some cities than in others.

Regional fuel market studies

In 2015 the ACCC announced that regional fuel market studies would be undertaken in Darwin and Launceston. The aim of the market studies is to consider, on a more detailed basis than possible in the quarterly reports, the drivers of petrol prices, in particular in regional markets.

The ACCC used its compulsory information-gathering powers to seek the provision of data necessary for the analysis of pricing factors and industry behaviour in the fuel supply chain for each selected location.

Petrol monitoring report 2014

On 3 December 2014 we released our seventh and final annual monitoring report on fuel prices in the Australian downstream petroleum industry. Key findings from the report for the 2013–14 year are set out below.

- In 2013–14 the annual average retail price of regular unleaded petrol in the five largest cities was 150.6 cpl. This was a 9.3 cpl increase from 2012–13 and the third highest average price on record in real terms.
- The international price of refined petrol made up 54 per cent of the average price consumers were paying at the pump, while taxes made up 34 per cent.
- As a result of relatively low rates of fuel taxation, Australia's petrol prices are among the lowest in the developed world. In the June quarter 2014, Australia had the fourth lowest retail petrol prices in the OECD.
- In 2013–14 the Australian dollar failed to protect motorists from high international petrol prices, as the AUD–USD exchange rate fell to its lowest levels since 2009–10. If the annual average exchange rate in 2013–14 had been at the same level as in 2012–13, retail petrol prices would have been around 10 cpl lower.
- In 2013–14 total downstream petroleum industry net profits were higher than in 2012–13. Net profits for all products and services in the downstream petroleum industry were around \$1.16 billion, compared with net profits in real terms of \$796 million in 2012–13.

¹ These are seven-day rolling average prices, which is the average of the current day's price and prices on the six previous days. Traditionally, the ACCC has used a seven-day rolling average to smooth out the influence of petrol price cycles in the larger cities on price movements.

- The retail sector reported net profits of \$495 million across all products and services in 2013–14—a decrease of 10 per cent in real terms from 2012–13. These lower profits in 2013–14 may have been influenced by ACCC undertakings relating to supermarkets' shopper docket discount schemes.

Price monitoring in 2014–15

The ACCC's monitoring of fuel prices covers:

- retail prices of unleaded petrol (including regular and premium unleaded petrol and E10 petrol), diesel and automotive liquefied petroleum gas in all capital cities and around 180 regional locations
- movements in the international benchmark prices for those fuels, international crude oil prices, published wholesale prices, and the price differential between capital cities and regional locations.

Petrol prices

The annual average retail price of regular unleaded petrol in the five largest cities in 2014–15 was 134.1 cpl.² This was 16.5 cpl lower than the 2013–14 average price of 150.6 cpl. Daily average prices ranged from a high of around 158 cpl in mid-July 2014 to a low of around 103 cpl in early February 2015. By the end of June 2015 daily average prices had increased to around 142 cpl.

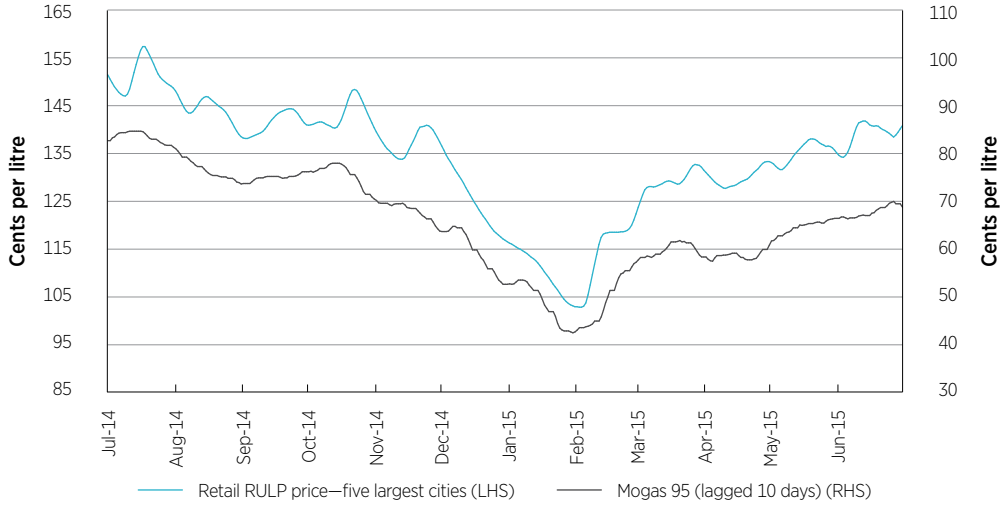
As in previous years, movements in domestic retail petrol prices in 2014–15 were primarily influenced by movements in international refined petrol prices (Singapore Mogas 95 Unleaded) and the AUD–USD exchange rate.

There was a sharp decline in international crude oil and refined petrol prices between July 2014 and January 2015. This was influenced by a number of factors, including:

- an increase in supply
- the decision by the Organization of the Petroleum Exporting Countries in November 2014 to not reduce output in response to falling crude oil prices
- reduced growth in demand.
- International crude oil and refined petrol prices increased from February 2015, influenced by political tensions in the Middle East, a reduction in the number of active US oil rigs, and stronger demand from China and India.

² From 1 July 2014 this is the price for regular unleaded petrol in all cities except Sydney, where E10 prices are used.

Figure 3.5: Regular unleaded petrol prices, 2014–15



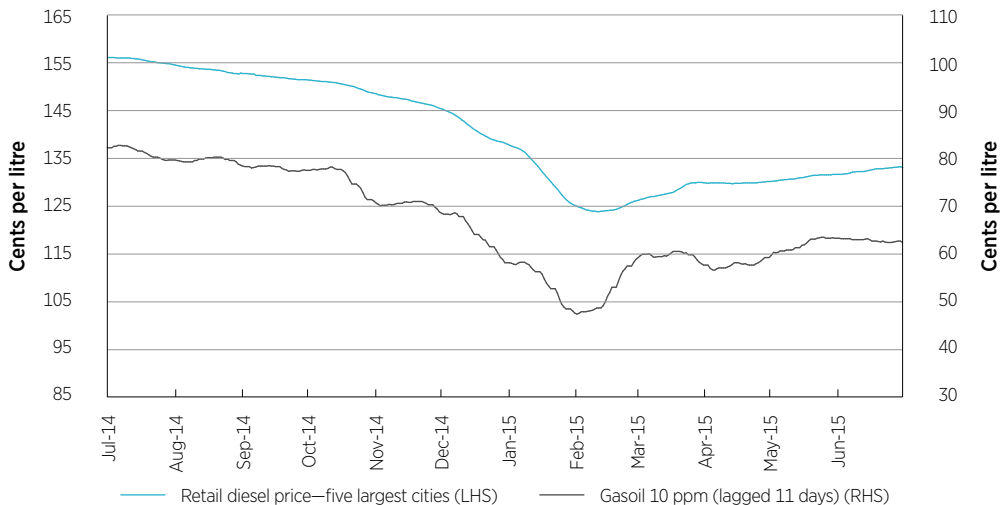
Source: ACCC calculations based on FUELtrac, Platts and RBA data.

Diesel prices

The annual average retail price of diesel in the five largest cities in 2014–15 was 140.4 cpl, which was 17.4 cpl lower than 2013–14. Daily average retail diesel prices in the five largest cities steadily decreased over the second half of 2014 from a high of around 157 cpl in July 2014 to a low of around 124 cpl in February 2015 (see figure 3.6). By the end of June 2015 prices had increased to around 134 cpl.

Retail diesel prices in Australia broadly followed movements in the relevant international refined diesel price (Singapore Gasoil 10 parts per million sulphur content). However, they tended not to move up or down as much as international prices in the short run.

Figure 3.6: Diesel prices, 2014–15



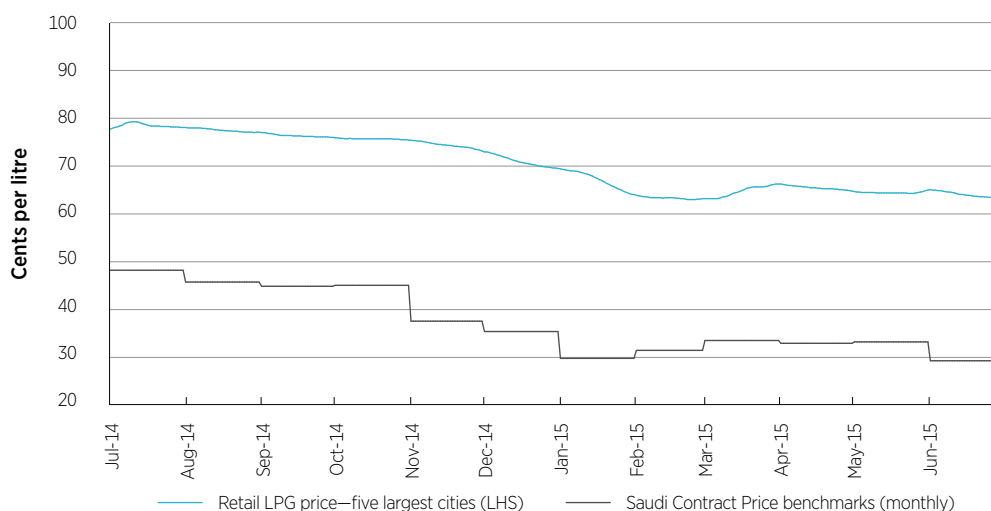
Source: ACCC calculations based on FUELtrac, Platts and RBA data.

Automotive liquefied petroleum gas (LPG) prices

In 2014–15, the annual average retail price of automotive LPG in the five largest cities was 70.7 cpl—a decrease of 12.3 cpl from 2013–14. Prices ranged from a high of around 80 cpl in mid-July 2014 to a low of around 63 cpl in February 2015 (see figure 3.7).

The appropriate benchmarks for LPG are the Saudi Aramco Contract Prices for propane and butane (Saudi CP). These prices only change once a month, at the start of each month, and loosely move in line with international refined petrol or diesel prices.

Figure 3.7: Automotive LPG prices, 2014–15



Source: ACCC calculations based on FUELtrac, RBA and Gas Energy Australia data.

Informing stakeholders

The *Monitoring of the Australian petroleum industry 2014 report* was distributed in hard-copy format to key stakeholders and contributors. The report was also made available on the ACCC website.

We updated fuel-related consumer and industry information on our website. ACCC fuel-related web pages were some of the most visited on the ACCC website. The site also showed how the price of unleaded petrol in the five largest cities tracked the international benchmark price for refined petrol.

From November 2014 we recommenced the ACCC's web-based data on petrol price cycles in the five largest cities, based on FUELtrac data.

In 2014–15, the ACCC received around 1280 consumer enquiries and complaints about fuel-related issues, including:

- high prices in regional locations relative to larger cities, and between regional locations
- high retail fuel prices and significant changes in price levels in certain locations
- retail fuel prices relative to changes in international oil and benchmark fuel prices
- potential anti-competitive behaviour in retail fuel markets
- new ACCC fuel sector monitoring arrangements.

Fuel-related ministerial correspondence during 2014–15 also raised similar matters.

The ACCC's Fuel Consultative Committee met twice in 2014–15. This forum provides opportunities for meaningful dialogue between the ACCC, the fuel industry and motoring organisations. Information sharing through the committee increases our understanding of fuel industry issues and assists us in promoting competition and consumer protection in the fuel industry.

3.4 Enhancing our regulation of national infrastructure

2014–15 strategies: *Deliver network regulation to promote competition and meet the long-term interests of end users.*

Respond to government requests to provide monitoring reports on industries in highly concentrated and newly deregulated or emerging markets.

Improve regulatory practices and processes, including by building relationships with domestic and international regulatory agencies to leverage their experience.

Measures:

- Timely, considered and evidence-based regulatory decisions based on constructive engagement and complemented by effective enforcement and compliance activities.
- Timely provision of accurate advice to government including evaluating the effectiveness of frameworks such as access regimes.
- Accurate, targeted and accessible reports on industry and competitive conditions, including pricing practices.

Our role in infrastructure regulation

The ACCC has responsibilities in industry regulation that include:

- promoting efficient investment and access to monopoly rail infrastructure
- access to wheat ports
- monitoring prices and service quality for Australia's four major airports
- providing information on the performance of Australia's container stevedoring industry.

In the rail sector our responsibilities include:

- assessing undertakings by rail access providers on rail track infrastructure
- monitoring and administering accepted undertakings where necessary
- taking action under accepted undertakings, including arbitrating access disputes.

In wheat export port terminal services, our responsibilities include:

- monitoring and assessing compliance with the regulations in the Wheat Port Code
- making determinations on whether a port terminal service provider is an exempt service provider
- assessing and approving capacity allocation systems.

In relation to Australia's four major airports, we:

- monitor and publish information about prices, costs, profits and service quality of aeronautical services and facilities
- monitor the prices, costs and profits and quality of car parking services

- assess notifications of proposed price increases from Sydney Airport regarding regional air services
- assess notifications of proposed price increases from Airservices Australia, which provides air traffic control and aviation fire-fighting and rescue services to airports and airlines.

In the container stevedoring industry, we:

- monitor performance, including prices, costs and profits
- inform the government and community on our findings.

We assess price notifications in the post and air services sectors.

We also investigate complaints about international liner cargo shipping conference agreements. In 2014–15, the ACCC also participated in a working group with the Council of Financial Regulators that was conducting a review of competition in clearing Australian cash ecash equities.

Airports and air services

Monitoring airport prices, costs, profits and services, including car parking

The ACCC monitors the prices, costs and profits of aeronautical and car parking services at Brisbane, Melbourne (Tullamarine), Perth and Sydney (Kingsford Smith) airports under Part VIIA of the Act. Under the *Airports Act 1996*, we also monitor the quality of the aeronautical services and facilities provided at monitored airports. We publish our monitoring results in the annual *Airport monitoring report*.

The Australian Government has directed the ACCC to monitor the four major Australian airports until June 2020 owing to concerns that airports could use their position to earn monopoly profits to the detriment of consumers. The Productivity Commission will review these monitoring functions in June 2018.

Our airport monitoring program aims to increase the transparency of airport performance and discourage airport operators from increasing prices excessively and/or offering low-quality services. The ACCC does not set prices for airport services.

Aeronautical and car parking services and facilities

Our *Airport monitoring report for 2013–14*, released in April 2015, found that, despite relatively low passenger growth, monitored airports have continued to report substantial increases in aeronautical revenues and margins. Growth in international passenger numbers, which attract higher aeronautical charges, contributed to the increases in margins in 2013–14.

In 2013–14, total aeronautical revenue at the monitored airports increased by 5.3 per cent in real terms to around \$1.4 billion. This increase resulted from a combination of increased passenger numbers and higher aeronautical charges. The total aeronautical operating margin at the airports increased by 8 per cent in real terms to \$634.2 million in 2013–14.

Although aeronautical revenues and margins have continued to grow, there has been no considerable change to the overall average quality of service ratings for the airports. Brisbane Airport remained the only airport to receive an overall rating of 'good'. Both Melbourne and Perth airports received the equal lowest overall ratings of the airports during the year. They were rated within the 'satisfactory' range.

Car parking also continued to be a significant source of revenue for the airports during 2013–14. All airports increased their car parking revenue during the year. Each airport, apart from Melbourne Airport, increased their car parking operating margin. Sydney Airport earned the highest car parking operating margin of the monitored airports.

Airline–airport negotiations and competition

The *Airport monitoring report* also suggested that there is evidence that at some of the monitored airports airlines do not possess enough bargaining power to ensure appropriate commercial outcomes. In addition, the airports have continued to earn relatively substantial increases in aeronautical revenues and operating margins, with declining quality outcomes, over the past 11 years.

Airlines may have some bargaining power through their ability to initiate an application to the National Competition Council for an airport to be declared under Part IIIA of the Act. In the case of a declared airport, the ACCC would act as an arbitrator in a situation where negotiations between airports and airlines were unsuccessful. However, there is considerable time and uncertainty involved for airlines in going through the declaration process.

A potential avenue to address these imbalances could be deemed declaration. This would require the Australian Government to amend the *Airports Act 1996* to deem all aeronautical services as open to arbitration by the ACCC if commercial negotiations break down.

Proposed second Sydney airport at Badgerys Creek

Bargaining power imbalances are better addressed through competition, such as alternative choices to the monopoly airport operators. However, in the case of the second airport to be built in the Sydney region, competition was potentially removed when the Australian Government provided the acquirer of Sydney Airport with the right of first refusal to develop and operate any second airport within 100 kms of the Sydney CBD.

We consider that this is an example of the tension between short-term budgetary considerations and having regard to long-term competition goals. Having separate owners of the two Sydney airports would encourage each airport to lower prices and increase capacity and quality in order to capture market share from the other airport.

Results from our review of the airport quality of service monitoring program

For the 2013–14 *Airport monitoring report*, we introduced substantial changes to the types of data we collected to monitor the airports' quality of service. These changes resulted from the quality of service monitoring review that we conducted during 2013. The changes for the 2013–14 report included:

- changing the indicators that assess check-in services and facilities, baggage systems, public amenities, runways, taxiways and aprons
- discontinuing quality of service surveys for border agencies
- initiating quality of service surveys for selected business operators that access an airport's landside area
- altering the airports' reporting timelines to align with the timelines for financial data.

Airservices Australia price notification

Airservices Australia must notify the ACCC of proposed increases in prices for terminal navigation, en route navigation and aviation rescue and fire-fighting services.

We assess Airservices Australia's price notifications under the Act and then decide whether or not to object to the proposed price increases.

2015 price notification

Airservices Australia submitted a price notification to the ACCC on 1 May 2015. The notification proposed to implement the prices for its notified services as set out in the long-term pricing agreement accepted by the ACCC in 2011.

In making our assessment, we consulted stakeholders to decide the extent to which Airservices Australia had made reasonable progress in implementing its commitments under a long-term pricing agreement. Specifically, we consulted stakeholders on whether Airservices Australia had improved its consultation with industry on capital expenditure and developed key performance indicators. The feedback from stakeholders suggested that, while Airservices Australia has continued to do well in some areas, there is still room for improvement in others.

The proposed prices were the same as those outlined in Airservices Australia's long-term pricing agreement. The price notification also identified four new locations (Ballina, Coffs Harbour, Gladstone and Newman), at which Airservices Australia introduced aviation rescue and fire fighting services in 2014–15. Airservices Australia proposed to implement the same charges at the four new locations in 2015–16 as those for the similar services at other locations, as set out in the long-term pricing agreement.

On 17 June 2015, the ACCC decided not to object to Airservices Australia's proposed prices, which took effect from 1 July 2015. The 2015 price notification covers the final year of the five-year period covered by the current long-term pricing agreement.

Airservices Australia has commenced its preparation of the next long-term pricing agreement, which covers a five-year period of 2016–17 to 2020–21. It is expected to submit this to the ACCC for assessment around October 2015.

Sydney Airport regional air services price notification

The ACCC has a role under Part VIIA of the Act in assessing Sydney Airport Corporation Ltd's proposed price increases for regular public transport air services operating wholly within New South Wales. After assessing the proposed increases we decide whether to object or not object. The ACCC did not receive an application for a proposed price increase in 2014–15.

Stevedoring and shipping

Container stevedoring monitoring

The ACCC monitors the prices, costs and profits of container terminal operators at the ports of Adelaide, Brisbane, Burnie, Fremantle, Melbourne and Sydney under a standing direction from the then Treasurer. As part of this role the ACCC releases an annual monitoring report which provides information to the government and the wider community about the state and development of Australia's container stevedoring industry. This includes the industry's operating performance and its levels of competition, productivity and investment.

The ACCC's *Container stevedoring monitoring report no. 16*, focusing on the 2013–14 year found that increased competition in container stevedoring is delivering benefits to users of stevedoring services and the wider Australian community. In 2013–14, productivity improved, average prices fell and there was considerable investment in container terminals.

These benefits build on significant historical achievements in industry performance since the waterfront reforms of 1998.

The report identified two key risks for the industry's future performance—namely, the potential impact of:

- labour outcomes in Australian stevedoring
- port privatisations, where adequate regard is not given to promoting competition or the appropriate level of economic regulation.

The report also noted that, as freight flows are anticipated to double by 2030, opportunities to improve landside connections to container ports must be explored, including:

- reform of road charging and provision of infrastructure
- use of price signals to allocate access to scarce facilities such as container terminals
- industry-led initiatives to improve the efficiency of container supply chains.

International liner shipping agreements

Part X of the Act relates to international liner cargo shipping. There are limited exemptions from certain provisions of the Act for registered international liner cargo shipping conferences. A 'liner conference' or 'shipping conference' is an agreement between two or more shipping companies to operate a scheduled cargo service on a particular trade route under which particular shipping rates and terms of carriage apply to the conference members.

Under Part X the ACCC is responsible for investigating complaints about conference agreements. No formal investigations were active in 2014–15.

In our submission to the Harper review, we noted that Part X is outdated and should be repealed.

Wheat export port terminal services

On 19 September 2014, the Minister for Agriculture announced that the Port Terminal Access (Bulk Wheat) Code of Conduct would commence, replacing the previous wheat port access regime under the *Wheat Export Marketing Act 2008* (Cth).

The code is a mandatory code of conduct prescribed under the Act. Its purpose is to regulate the conduct of port terminal service providers to ensure that exporters of bulk wheat have fair and transparent access to port terminal services.

The code commenced on 30 September 2014. The regulations under the code include:

- an obligation on all port terminal operators to negotiate in good faith with wheat exporters for access to port terminal services
- an obligation to comply with continuous disclosure rules
- obligations on port terminal operators not to discriminate or hinder access in the provision of port terminal services
- the ability for wheat exporters to seek mediation or binding arbitration on terms of access in the event of a dispute
- obligations relating to publishing and ACCC approval for port loading protocols for managing demand for port terminal services
- publishing requirements.

The ACCC enforces the regulations in the code and has an ongoing role in monitoring compliance. It also has certain specific roles, including:

- assessing and making determinations on whether a port terminal service provider is an exempt provider (and, if appropriate, revoking such a determination)
- assessing and approving the capacity allocation system for a port terminal service provider.

Unlike the previous undertaking regime, the ACCC does not have any role in arbitrating disputes between port terminal service providers and access seekers.

Exemptions

The code has two tiers of regulation under which port operators may be exempted from some of the code requirements. Exempt service providers are not required to comply with Parts 3 to 6 of the code, including the non-discrimination obligation, recourse to arbitration, ACCC approval of port loading protocols, and publishing requirements.

The ACCC can make an exemption determination after having regard to a series of matters in the code, including the interests of exporters, the public interest in having competition and the legitimate business interests of the port operator.

The Minister for Agriculture can exempt a port terminal service provider from obligations under the code on the basis that it is a cooperative that meets certain characteristics defined in the code. The ACCC has no role in these cooperative exemptions.

Since the commencement of the code, the ACCC has conducted a series of exemption assessments of different geographic regions around Australia.

On 1 October 2014, the ACCC granted an exemption for GrainCorp's Carrington terminal at the Port of Newcastle, reaffirming a decision made under the previous undertaking regime.

On 12 December 2014, the ACCC released an issues paper concerning possible exemptions for Victorian wheat port terminals. We sought comments from stakeholders by 30 January 2015. On 10 April 2015 the ACCC issued draft determinations proposing to grant exemptions for Emerald Grain Pty Ltd's Melbourne port terminal and GrainCorp Operations Ltd's Geelong port terminal and to not grant an exemption to GrainCorp's Portland port terminal at this time. The ACCC released final determinations, affirming its draft determinations, on 25 June 2015.

On 7 May 2015 the ACCC released an issues paper in order to seek views on whether it is appropriate to determine GrainCorp and/or Quattro Ports to be exempt service providers at their respective port terminal facilities at Port Kembla.

On the same day, the ACCC also issued draft determinations that Newcastle Agri Terminal and Qube Holdings Limited be exempt service providers at their respective port terminal facilities at Newcastle.

On 23 June 2015, the ACCC released an issues paper seeking views on whether to grant exemptions to GrainCorp and/or QBT at their respective port facilities at Brisbane.

The ACCC is also intending to conduct similar assessments for ports in Western Australia and South Australia.

Capacity allocation approvals

Under the code, the ACCC has a role in assessing and approving proposed changes to the capacity allocation systems that a port terminal operator uses to allocate its port capacity.

On 12 March 2015, Viterra Operations Ltd submitted a proposal to the ACCC to introduce long-term agreements for its port capacity at its six wheat port terminals in South Australia.

The ACCC released an issues paper on 2 April 2015 seeking views from interested parties by 24 April 2015.

On 12 June 2015, Viterra lodged a revised proposal with the ACCC. The ACCC's assessment is ongoing.

Port privatisations and port reform

In the context of port privatisations and port reform, the ACCC is keen to ensure that governments privatise assets to promote competition rather than to maximise sale prices. The ACCC has provided submissions to inquiries on this issue—for example, the 2014 competition policy review headed by Professor Ian Harper and the Senate Economics and Public Administration Committee inquiry on the privatisation of state and territory assets and new infrastructure.

Rail

Under Part IIIA of the Act, the ACCC assesses and monitors compliance with access undertakings by rail access providers regarding rail track infrastructure (below rail services). To date, only one provider—the Australian Rail Track Corporation (ARTC)—has access undertakings in place. ARTC has one access undertaking for its Hunter Valley rail network in New South Wales and one for its national interstate rail network.

Hunter Valley access undertaking

The Hunter Valley access undertaking, which the ACCC accepted in 2011, regulates access to the rail network in the Hunter Valley leased by ARTC. The network is predominantly used to transport export coal from the region's mines to the Port of Newcastle in one of the world's largest coal export operations. It is also used for domestic coal and non-coal freight.

The access undertaking requires ARTC to annually submit documentation to the ACCC demonstrating its compliance with the financial model and pricing principles in the undertaking.

In May 2014, the ARTC submitted its compliance documentation for the 2013 calendar year. The ACCC considered that ARTC's reconciliation of its revenues and costs for 2013 may be inconsistent with the principles set out in the Hunter Valley access undertaking and may result in a cross-subsidy from one group of users to another.

In November 2014, the ACCC released a position paper setting out preliminary views on issues such as the prudence and efficiency of ARTC's costs and its compliance with the revenue cap following two rounds of consultations with stakeholders on these issues.

In May 2015, ARTC submitted its compliance documentation for the 2014 calendar year. The ACCC's assessment of ARTC's compliance for both the 2013 and 2014 calendar years is ongoing, with the ACCC having engaged an independent consultant to review the costs of ARTC's Hunter Valley rail network.

In January 2014, ARTC submitted an application to vary the Hunter Valley access undertaking to implement provisions relating to an efficient train configuration and associated indicative charges. The ACCC conducted two rounds of consultation with stakeholders, issuing a consultation paper in February 2014 and then a position paper in August 2014.

During these consultations it became clear that there remained divergent views within industry on the efficient train configuration and appropriate pricing and there needed to be more time for stakeholders to discuss these issues. On 7 November 2014, ARTC withdrew its application from the ACCC's consideration.

Interstate access undertaking

The interstate access undertaking, accepted by the ACCC in 2008, facilitates competition by regulating access for freight and passenger services on the interstate rail network leased by ARTC. During 2014–15, the ACCC continued to monitor ARTC's compliance with its undertaking.

Postal services

In regulating postal services we:

- assess price notifications for Australia Post's monopoly services, including the basic postage rate
- inquire into disputes about the terms and conditions on which Australia Post provides bulk mail services
- monitor for cross-subsidies between monopoly and contestable services.

Australia Post price notifications

The ACCC did not make a decision on a price notification from Australia Post in 2014–15. However, the ACCC continues to liaise closely with Australia Post on longer term postal pricing issues, including proposals to increase the basic postage rate to enhance the financial sustainability of its letter services.

Australia Post cross-subsidy assessment

The ACCC scrutinises Australia Post's regulatory accounts and reports annually to determine whether the organisation is cross-subsidising its contestable services with revenue from its monopoly services.

We issued our cross-subsidy report for 2013–14 on 14 April 2015. The report concluded that, as in previous years, the regulatory accounts did not show that Australia Post was cross-subsidising its contestable services; rather, the report found that these services were, as a whole, a source of subsidy.

In 2013–14 Australia Post's monopoly letter services were unable to recover their costs. The regulatory accounts also show that Australia Post's overall revenues were actually lower than its costs, allowing for capital costs.

Competition in clearing Australian cash equities

In 2014–15, the ACCC participated in a review of competition in clearing Australian cash equities conducted by the Council of Financial Regulators.

The government announced the review on 11 February 2015. On the same day, the Council of Financial Regulators and the ACCC released a consultation paper seeking views on a range of potential policy options.

The ACCC participated in stakeholder consultation and was a member of the working group conducting the review.

3.5 Improving regulatory practices

2014–15 strategy: *Improve regulatory practices and processes, including by building relationships with domestic and international regulatory agencies to leverage their experience.*

Our role in improving regulatory practices

In 2014–15 the ACCC improved regulatory practices through a range of activities, including through our own regulatory economics unit; hosting a regulatory conference to encourage information sharing, discussion and debate on regulatory practice; our engagement with other government agencies, regulators and industry through many different groups; and our input to government through reports and inquiries.

Regulatory Economic Unit

The ACCC Regulatory Economic Unit's role is to increase the quality of economic analysis available to the ACCC/AER and promote the consistent use of economic principles across the different sectors that the ACCC/AER regulates. The unit's economic specialists provide advice to all areas of the ACCC/AER; research and develop best-practice regulatory techniques; and contribute to economic discussion, debate and training on regulatory issues.

To further develop our thinking on regulation, the Regulatory Economic Unit provides a seminars program that features internal and external presenters speaking about regulatory economics and finance topics.

ACCC/AER Regulatory Conference

We again hosted the annual ACCC/AER Regulatory Conference, which brought together industry participants, policy makers, academics and regulators from around the world to consider the latest ideas about regulatory theory and practice. The main theme of the 2014 conference was regulating for efficient infrastructure outcomes. Topics included the environment for successful infrastructure reform, regulating in the face of declining demand and achieving compliance to promote efficient regulatory outcomes.

Communications

The ACCC consults regularly with other government agencies and regulators in the communications industry, including through the quarterly Telco Regulators Roundtable. Agencies represented on the roundtable include ACMA, the Department of Communications and the Telecommunications Industry Ombudsman. Roundtable interaction ensures that all regulators deal with upcoming telecommunication issues in a consistent manner.

- As part of its role, the ACCC is required to produce a range of reports, many of which are provided to the government and various government agencies. In 2014–15 we made a submission to the Parliamentary Joint Committee on Intelligence and Security inquiry into the Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014. We also gave evidence at the Senate select committee inquiry on the NBN.

Utility Regulators Forum

- The Utility Regulators Forum is coordinated by the ACCC and comprises the ACCC/AER and state/territory and New Zealand regulators. These meetings are an important vehicle for sharing regulatory practice between Commonwealth, state/territory and New Zealand economic regulators.

The forum meets every six months. The last meeting was held in June 2015.

Fuel Consultative Committee

The Fuel Consultative Committee, which was established in 2010, promotes meaningful dialogue between the ACCC, the fuel industry and motoring organisations. Committee meetings are held twice a year and are chaired by ACCC Chairperson Rod Sims. They provide an opportunity for the ACCC to increase its understanding of fuel industry issues and help the ACCC fulfil its role in issues related to competition and consumer protection in the fuel industry.

During the year, the committee discussed a range of issues relating to the Australian downstream petroleum industry. Among issues discussed were:

- recent developments in domestic refining, importing and distribution
- petrol price cycles and fuel price volatility
- the outcomes of finalised ACCC enforcement action
- implementation of new ACCC fuel monitoring arrangements and regional fuel market studies.

Infrastructure Consultative Committee

Infrastructure Consultative Committee members represent a variety of infrastructure sectors including energy, telecommunications, water, rail, ports and airports as well as the regulators: the ACCC and AER. The committee is an important means for the ACCC and AER to gain feedback from stakeholders and allows infrastructure representatives to learn about issues that affect the regulation of other areas. Many of the issues that the committee discusses relate to achieving efficient infrastructure investment. The committee meets twice a year and is chaired by ACCC Chairperson Rod Sims.

NBN Over-the-top Services Transition Working Group

The NBN Over-the-top Services Transition Working Group is coordinated by the Communications Alliance. It considers issues to do with the ongoing operation of over-the-top services (including personal and emergency alarms) on the NBN. Over-the-top services or content refers to delivery of audio, video and other media over the internet without the involvement or a control of an internet services provider. The internet service provider may be aware of the content, but is not responsible for, or able to control, the viewing abilities, copyrights and/or other redistribution of the content. During the year, the group focused on implementing an industry guidance note on the migration of personal and medical alarms to the NBN. Activities included:

- the development of a medical alarm register of the identity and location of medical alarms to support the migration of customers to the NBN
- NBN Co's new web page, which provides high-level information about testing of over-the-top devices.

The working group has suspended regular meetings, as its work has been overtaken by the Communications Alliance NBN Migration Working Committee.

NBN transfer working groups

We have contributed to two Communications Alliance working groups associated with the transfer of consumers from legacy networks to the NBN or the transfer of consumers between retail service providers on the NBN. These working groups are developing either an industry guideline or a code to ensure that relevant stakeholders are aware of the process and their responsibilities in order to facilitate an effective transition for consumers.

NBN Co's public information on migration campaign

During 2014–15, the ACCC gave feedback on an ad hoc basis on a range of public information on migration materials distributed to consumers and businesses throughout Australia—for example, NBN Co correspondence to consumers relating to disconnection.

Service Continuity Assurance Working Group

We take part in the Service Continuity Assurance Working Group, which involves NBN Co, Telstra, Optus Communications Alliance and relevant government agencies. The purpose of the working group is to help resolve issues that may affect people's ability to rely on their telephones and internet as services are disconnected from Telstra's legacy networks and migrated to the NBN.

Consultation on water-related issues

As an observer, we participate in the Murray-Darling Basin Authority's Trade Working Group and Trade Operators' Panel, both of which discuss interstate water trade issues in the basin. We also participate in the Trading Rules Working Group, which considers matters relating to the Basin Plan water trading rules.

As part of our review of the water charge rules, we consult with stakeholders including basin state government departments and regulators, infrastructure operators and industry groups.

We also consulted with irrigation infrastructure operators and industry groups throughout our annual review of Water NSW's 2015–16 charges.

Energy Intermarket Surveillance Group

The AER is a founding member of the Energy Intermarket Surveillance Group, which is the peak and only international group coordinating and sharing skills between energy market surveillance and enforcement bodies such as the AER. See page 197 for more details of our work with this group in 2014–15.

Performance summary

Promote the economically efficient operation of, use of and investment in monopoly infrastructure in the long-term interest of end users

Measures

- Timely, considered and evidence-based regulatory decisions based on constructive engagement and complemented by effective enforcement and compliance activities.
- Timely provision of accurate advice to government including evaluating the effectiveness of frameworks such as access regimes.
- Accurate, targeted and accessible reports on industry and competitive conditions, including pricing practices.

Our performance and the results we achieve are described in detail throughout the report on performance. In this section we provide a short summary and some highlights of our performance in relation to our role in regulating infrastructure.

Timely, considered and evidence-based regulatory decisions based on constructive engagement and complemented by effective enforcement and compliance activities

- We made six regulatory decisions in 2014–15.
- Of those with statutory timeframes, we made all within the statutory timeframe.
- We commenced declaration inquiries into a range of telecommunications services and conducted public consultation throughout these processes.
- We undertook compliance activities for four wheat export port terminal services access undertakings and two rail access undertakings.
- We received a price notification from Airservices Australia. We consulted with stakeholders before deciding not to object to the notification, within statutory timeframes.
- We began two in-depth investigations into regional fuel markets.

Timely provision of accurate advice to government including evaluating the effectiveness of frameworks such as access regimes

- We provided advice to the government on competition and consumer issues relating to the renegotiation of the Telstra/NBN Co definitive agreements.

We met statutory and other deadlines in advice on:

- our input to the Harper review of competition policy
- the Productivity Commission's review of the National Access Regime
- the government reviews relating to Australian shipping
- comprehensive and accurate monitoring reports for telecommunications, water, petrol, airports, container stevedoring and cross-subsidy in Australia Post.

Accurate, targeted and accessible reports on industry and competitive conditions, including pricing practices

We released 10 monitoring reports in total, including:

- the annual *ACCC telecommunications report 2013–14*
- a report on Telstra's compliance with retail price control arrangements 2013–14
- a report on Telstra's compliance with the Structural Separation Undertaking
- two quarterly petrol monitoring reports under the new fuel price monitoring arrangements introduced in December 2015. This more frequent reporting enabled contemporaneous comment on influences on fuel price movements
- the annual *Monitoring of the Australian petroleum industry* report for 2013–14, which reported on prices, costs and profits in the Australian downstream petroleum industry
- the *Airport monitoring report 2013–14*, which analysed prices, costs, profits and quality of aeronautical and car parking services at the four major airports
- the *Container stevedoring monitoring report no. 16*, which highlighted competition and efficiency outcomes and areas for further reform
- the *Assessing cross-subsidy in Australia Post 2013–14* report, which clarified that no cross-subsidy occurred in 2013–14
- The *ACCC water monitoring report 2013–14*.

We published all reports, together with related summaries and media information, in a range of accessible formats on our website.

Program 1.2
Australian Energy Regulator

The Australian Energy Regulator (AER) is the national energy market regulator. The AER's roles encompass the retail and wholesale electricity and gas markets and energy network infrastructure.

The objectives of the national energy legislation guide the AER's priorities and work program. The common objective under the legislation is to promote efficient investment in, and efficient operation and use of, energy services for the long-term interests of end users.

The AER operates under the *Competition and Consumer Act 2010* (Cth) (the Act), with functions as set out in national energy market legislation and rules. The AER has an independent board made up of one Commonwealth member and two state/territory members. It is supported by staff who are engaged exclusively on energy matters and also has access to specialist legal and economic staff, which it shares with the ACCC.

The AER's functions mostly relate to electricity and gas markets in eastern and southern Australia. They include:

- setting the amount of revenue that network businesses can recover from customers for using networks (electricity poles and wires and gas pipelines) that transport energy and ensuring networks comply with electricity and gas laws and rules
- fulfilling wide-ranging responsibilities in retail energy markets:
 - providing the Energy Made Easy comparator website (www.energymadeeasy.gov.au)
 - enforcing compliance with retail legislation
 - authorising retailers to sell energy
 - approving retailers' policies for dealing with customers in hardship
 - administering the national Retailer of Last Resort scheme
 - reporting on retailer performance and market activity
- monitoring wholesale electricity and gas markets to ensure compliance with legislation and rules, taking enforcement action where necessary
- publishing information on energy markets, including the annual *State of the energy market* report.

The AER applies the following laws, regulations and rules:

- National Electricity Law
- National Electricity Regulations
- National Electricity Rules
- National Energy Retail Law
- National Energy Retail Regulations
- National Energy Retail Rules
- National Gas Law
- National Gas Regulations
- National Gas Rules.

In Victoria the AER also regulates cost recovery for mandated smart metering infrastructure under the Victorian *Electricity Act 2000*.

AER reporting

This annual report meets the AER's formal reporting requirements under the *Financial Management and Accountability Act 1997* and s. 44AAJ of the *Competition and Consumer Act 2010*. The AER publishes a separate annual report to provide more detail on its performance indicators, as well as information on activities, staff and expenditure.

Goal 1: Delivering better network regulation

Significant outcomes 2014–15

- Made three preliminary and eight final network decisions and began a further six decisions.
- Released our first benchmarking report on the performance of electricity network service providers.
- Considered and approved annual pricing proposals for 13 electricity distribution businesses and 11 gas transmission and distribution businesses.
- Lodged submissions with the Australian Energy Market Commission (AEMC) on rule change proposals relating to the demand management incentive scheme, expanding competition in metering and related services and electricity distribution network pricing arrangements and aligning electricity network and retail tariffs.
- Commissioned the first stage of a database to collect, store and report data from network businesses.

1.1 Network decisions

2014–15 strategies: *Make transparent decisions within statutory time limits. Gain advice from the newly established Consumer Challenge Panel.*

Implement network guidelines that cover how the AER:

- *assesses the regulated return on capital*
- *scrutinises network businesses' expenditure proposals*
- *encourages efficient investment*
- *engages consumers in the regulatory process.*

Measures:

- Decisions consistent with the legislative framework and made within statutory time limits.
- Write all public documents clearly and include plain English explanations.
- Publish regulatory decisions that clearly set out how we accounted for stakeholder views, including those of the Consumer Challenge Panel.
- Regulatory decisions draw on improved data systems, information requirements, analysis techniques and metrics.
- Draw on increased in-house technical expertise, including engineering capabilities.

Our involvement in network regulation

The electricity and gas rules require network businesses to periodically submit regulatory proposals (electricity) and proposed access arrangements (gas) to the AER for approval. We assess the proposals with regard to legislative criteria, taking account of issues raised in consultation. Network businesses can appeal our decisions to the Australian Competition Tribunal.

To determine allowable revenue, the AER must account for the efficient costs of providing transmission or distribution services. Network businesses also need an adequate return on capital.

We consult extensively in making network decisions. We develop a framework and approach for each electricity review then publish an issues paper, draft decision and final decision. Gas reviews follow a similar process but there are no requirements for a framework and approach or issues paper to be undertaken. We also hold public forums and consult with the network businesses and other stakeholders, including consumer representatives, governments and investment groups. The Consumer Challenge Panel plays a significant role in our review process by advising on issues important to consumers.

In 2014–15 the AER made 11 network decisions:

- final distribution determinations for the New South Wales electricity distribution networks (Ausgrid, Endeavour Energy and Essential Energy) for the four-year regulatory period beginning 1 July 2015
- a final transmission determination for TransGrid (the New South Wales electricity transmission network) for the three-year regulatory period beginning 1 July 2015
- a final transmission determination for TasNetworks (the Tasmania electricity transmission network) for the four-year regulatory period beginning 1 July 2015
- a final transmission determination for the Directlink interconnector (Queensland and New South Wales) for the five-year regulatory period beginning 1 July 2015
- a final distribution determination for ActewAGL (the Australian Capital Territory (ACT) electricity distribution network) for the four-year regulatory period beginning 1 July 2015
- a final access arrangement decision for Jemena (the New South Wales gas distribution network) for the five-year access arrangement period beginning 1 July 2015
- preliminary distribution determinations for the Queensland electricity distribution networks (Energex and Ergon Energy) for the five-year regulatory period beginning 1 July 2015
- a preliminary distribution determination for SA Power Networks (the South Australian electricity distribution network) for the five-year regulatory period beginning 1 July 2015.

The AER began a further six decisions in 2014–15:

- for the five Victorian electricity distribution networks (AusNet Services, Jemena, CitiPower, Powercor and United Energy) for the five-year regulatory period beginning 1 January 2016
- for ActewAGL (the gas distribution network in the ACT) for the five-year access arrangement period beginning 1 July 2016.

In 2014–15 the AER also did work to prepare for upcoming decisions. We:

- published the framework and approaches for the transmission determinations for AusNet Services (the Victorian electricity transmission network) and Powerlink (the Queensland electricity transmission network) for the five-year period beginning 1 July 2017

- began the framework and approach for the distribution determination for TasNetworks (the Tasmania electricity distribution network) for the five-year period beginning 1 July 2017
- engaged with Australian Gas Networks (SA) (the gas distribution network in South Australia) and APA group (owner of the Amadeus transmission pipeline in the Northern Territory) in preparation for reviews of gas access arrangements for the five-year access arrangement periods beginning 1 July 2016
- approved revised cost allocation methods for Ergon Energy and for the five Victorian electricity distributors (CitiPower, Powercor, AusNet Services, Jemena and United Energy). The method governs how a distributor may allocate costs to avoid cross-subsidisation between distribution and other services
- published new versions of the post-tax revenue models applicable to future electricity determinations. The new models allow the rate of return on debt to vary each year within a regulatory period
- finished developing the first stage of a networks database to collect, store and report on the increasing volume of information received from network businesses. The database supports our new analytical techniques.

Better Regulation guidelines

Our network decisions in 2014–15 were the first to apply guidelines developed through our Better Regulation program. The guidelines implemented rule changes that encourage network businesses to seek more efficient ways of providing services.

The guidelines cover:

- expenditure forecast assessment—our process, techniques and associated data requirements for setting efficient expenditure allowances for network businesses
- expenditure incentives—creating incentives for efficient network spending and for sharing the benefits with consumers
- rate of return—how the AER determines the return that electricity and gas network businesses can earn on their investments
- consumer engagement—a framework for electricity and gas service providers to engage with consumers
- shared assets—sharing benefits of third-party use of network assets with customers who funded those assets
- confidentiality—how energy network businesses must make clear the reasons for any confidentiality claims placed on information they submit to us.

Appeals against regulatory decisions

Network businesses, consumer groups and people/organisations that make submissions to the AER's decision-making processes can apply to the Australian Competition Tribunal for limited merits review of our regulatory decisions. The tribunal has the power to dismiss an application, substitute its own decision or send the matter back to the AER to remake the decision.

Network businesses can also apply to the Federal Court for judicial review of AER decisions or Australian Competition Tribunal decisions.

The AER participates in these reviews.

No limited merits reviews of our decisions took place in 2014–15, but applications were filed with the Australian Competition Tribunal for limited merits review of:

- our distribution determinations for the three New South Wales electricity distribution networks (AusGrid, Endeavour Energy and Essential Energy) and the ACT electricity distribution network (ActewAGL) for the regulatory period 2014–19 (applications were from these network businesses and the Public Interest Advocacy Centre)
- our distribution access arrangement decision for the New South Wales gas distribution network (Jemena Gas Networks (NSW)) for the access arrangement period 2015–20 (this application was from Jemena).
- Leave to appeal was granted on 17 July 2015, with the hearings scheduled to begin on 21 September 2015.

On 29 May 2015 these network businesses also filed applications with the Federal Court for judicial review of the above-mentioned determinations.

On 29 May 2015, Ergon Energy filed an application with the Federal Court for judicial review of the AER's preliminary distribution determination for its Queensland electricity distribution network.

First directions hearings for all of these matters have been listed for 21 September 2015 (the date that hearings of the Australian Competition Tribunal limited merits review applications begin). It is the intention of the Australian Competition Tribunal to have the matters stood over until it makes its decision on the review applications.

In August 2013 the Australian Competition Tribunal dismissed a legal challenge by AusNet Services regarding the AER's decision on Victorian smart meter charges for 2012–15. AusNet Services then appealed to the Full Federal Court. In September 2014 the Federal Court dismissed AusNet Services' application for judicial review on this matter.

1.2 Oversight of network regulation

2014–15 strategy: *Make transparent decisions within statutory time limits.*

- Measures:**
- Decisions consistent with the legislative framework and made within statutory time limits.
 - Write all public documents clearly and include plain English explanations.

Our oversight activity

The AER's role in network regulation extends beyond making network decisions and approving access arrangements. Our wider work program includes:

- tariff assessment—we conduct annual reviews of tariffs for electricity distribution services and gas pipelines
- cost pass-throughs—we consider applications by network businesses to pass through to customers costs arising from events outside their control that were not anticipated when their network decisions were made
- guideline development and incentives to improve performance—we develop guidelines on the regulatory process. We also develop incentive schemes for network businesses to improve their performance and then administer those schemes and monitor for compliance
- policy input—we engage in policy reviews and rule changes relating to our network regulation role
- network access (connection) disputes—we resolve customer disputes with distribution businesses on the terms and conditions of connection offers
- customer and stakeholder complaints—we investigate complaints and advise the complainants of our findings. If we find that a distribution business has breached its regulatory obligations, we use our enforcement powers to ensure future compliance
- regulatory investment test for electricity—we monitor and enforce the compliance of network businesses in applying regulatory investment tests for new investment
- performance reporting—we publish information from network businesses about their revenues, prices, expenditures, operations and service delivery
- network exemptions—we maintain a register of small electricity networks that have been exempted by us from registering with the Australian Energy Market Operator.

Annual tariff assessment

The AER annually reviews network tariffs to ensure that changes do not breach revenue or pricing limits. We also ensure tariffs reflect underlying costs so they are consistent with applicable pricing principles.

In 2014–15 the AER reviewed and approved tariff applications from energy businesses in New South Wales, Victoria, Queensland, South Australia, Tasmania and the ACT for tariffs applying in 2015–16 (or 2015 for Victorian businesses). The applications concerned proposals from 13 electricity distribution businesses and 11 gas transmission and distribution businesses.

The AER initially rejected one of the applications by SA Power Networks (the South Australian electricity distribution network business) because two of the proposed tariffs did not comply. The AER approved a revised proposal which removed these two tariffs on 30 June 2015.

Advanced metering infrastructure charges assessment

In 2014–15 the AER approved revised advanced metering infrastructure charges. These charges are for the metering infrastructure that is provided to small consumers by the Victorian electricity distribution network businesses.

The 2015 charges for advanced metering infrastructure services were originally set in October 2011, when the AER approved budgets for 2012–15. The businesses must revise the charges each year based on actual expenditure and any forecast expenditure updates. They are only allowed to recover costs the AER deems are prudent and efficient.

We also approved charges for manual meter fees to apply from 1 April 2015 to 31 December 2015. The fees apply to small customers who have refused installation of advanced metering infrastructure.

Cost pass-throughs

Network businesses can apply to pass through to customers costs arising from events outside their control that were not anticipated when their network decisions were made.

Before approving a pass-through, the AER must consider the efficiency of the expenditure and actions to mitigate costs. In 2014–15 we approved 13 cost pass-through applications, including for:

- easement land tax costs for the Victorian electricity transmission network
- costs incurred by two Victorian networks to meet a direction from Energy Safe Victoria to underground powerlines in high-bushfire-risk areas. The pass-through was for increased taxation costs not met through grants from the Victorian Government Powerline Replacement Fund
- increased costs arising from a gas mains replacement program for a distribution network in Victoria. The AER's pricing decision provided for the pass-through if Australian Gas Networks delivered a trigger volume of mains replacement.

A cost pass-through application by ActewAGL (ACT electricity distribution) for vegetation management costs incurred in 2012–13 was deemed to be approved, as the AER did not make a determination within 60 business days of receiving the application. Due to the complexity of the application, the AER sought to extend the time for consideration to obtain additional information and to consult with stakeholders. However, while this is possible under the current National Electricity Rules, it could not be done under the transitional rules that applied to ActewAGL at the time.

Dispute resolution

A customer who is dissatisfied with a connection offer from a distribution network business may request a review by the AER. We publish guidance on how we resolve connection disputes. In 2014–15 we received:

- nine electricity connection disputes, of which eight were resolved and one remained under investigation at 30 June 2015. The connection charges of five customers were substantially reduced
- one gas connection dispute. The connection charge of this customer was substantially reduced.

Performance reporting

The AER uses regulatory information notices to collect information from businesses in order to carry out its functions. For transparency and to ensure stakeholders can access information affecting their interests, the AER publishes the non-confidential information it receives on the AER website.

In 2014–15 we released regulatory information notice information on the operational and financial performance of electricity distribution networks in New South Wales, Queensland, South Australia, Tasmania and the ACT for 2013–14, and Victoria for 2013.

On 30 June 2015, we also issued a performance report on electricity distribution businesses covering 2011–13. The report compared financial and operational outcomes with forecasts in regulatory decisions.

The AER streamlined the reporting requirements for transmission businesses by removing obligations covered in the Better Regulation regulatory information notices. We also removed other reporting requirements that were redundant or not aligned with the regulatory framework. The revised information requirements are set out in the [Electricity transmission network service providers information guideline](#) (version 2).

Incentive schemes and guideline development

Electricity distribution incentives

Distribution businesses report annually on their demand management innovation allowance expenditure. We assess the expenditure for compliance with the Demand Management Incentive Scheme and the entitlement of each business to recover that expenditure.

In April 2015 the AER published decisions on compliance with the incentive scheme by 10 energy networks. The businesses sought approval of total expenditures of \$4.3 million for 51 projects. The AER approved the expenditure.

Our Service Target Performance Incentive Scheme for electricity distribution networks encourages the businesses to maintain or improve service performance for the long-term benefit of users. The scheme aims to ensure that businesses do not make efficiency improvements at the expense of service performance. We review businesses' performance against the scheme annually.

Victorian fire reduction incentives

The AER administers f-factor—a scheme introduced by the Victorian Government to provide incentives for Victorian distribution networks to reduce the risk of fire starts from electricity infrastructure and to reduce the risk of loss or damage caused by fire starts.

For the first four years of the f-factor scheme (2012–15), distribution networks are rewarded or penalised \$25 000 per fire below or above their respective targets.

On 21 August 2014 the AER released its determination for 2013 outcomes. All Victorian distribution network service providers except AusNet Services received a penalty for exceeding the benchmark number of fire starts. The penalties ranged from \$65 000 for CitiPower to \$2 405 000 for Powercor. AusNet Services received a \$2 020 000 reward for achieving a below-benchmark number of fire starts.

This decision resulted in a small increase in AusNet Services' network tariff for 2015 (about \$3.11 a year per customer) and a reduction in other network tariffs of between \$0.11 and \$3.27 for 2015, depending on a customer's distribution area.

Electricity transmission incentives

The AER's service target performance incentive scheme for electricity transmission networks encourages the businesses to maintain or improve service reliability in a way that customers value. The scheme encourages network development that supports efficient wholesale electricity prices.

In 2015 the AER published reviews of how Powerlink, TasNetworks, ElectraNet, AusNet Services, Directlink, Murraylink and TransGrid performed against their incentive schemes for the 2014 calendar year.

On 17 September 2014 the AER amended the scheme (creating version 4.1) with changes to take effect from 1 July 2015. The changes addressed aspects of the application of the scheme to Directlink in light of exceptional outages of Directlink's equipment in 2012.

The scheme's network capability component initially applied only to TasNetworks, TransGrid and AusNet Services. On 19 May 2015, following a rule change by the AEMC, the AER approved ElectraNet's application for early access to this component from 1 July 2015.

The AER commenced a review of the scheme in 2015, prior to the next round of transmission determinations. The review will consider design issues identified in the current scheme and will consider other refinements. We will publish an amended scheme (version 5) in August 2015 with improvements focusing on market impact and the network capability. Version 5 will apply to upcoming transmission determinations for AusNet Services and Powerlink for 2017–22. We held a stakeholder forum to discuss the proposed changes on 18 May 2015.

Pricing methodology guidelines

Inter-regional transmission charging arrangements commence on 1 July 2015. The reforms promote more efficient cost allocation for transmission services across inter-state networks. On 17 July 2014 the AER amended its [pricing methodology guidelines](#) in anticipation of these new arrangements.

Network policy contributions

The AER made submissions to a number of AEMC rule change processes in 2014–15, including on:

- distribution reliability measures
- connecting generators to electricity distribution networks
- the demand management incentive scheme
- expanding competition in metering and related services
- electricity distribution network pricing arrangements
- aligning electricity distribution and retail tariffs.

Network exemptions

- Small electrical networks such as in apartment buildings, shopping centres and industrial parks are subject to a simplified regulation regime. The regime, administered by the AER, covers safety, metering, dispute resolution, network charging and access to retail competition.

Anyone who owns, operates or controls a small network can register with the AER as an exempt network service provider. The AER maintains a register on our website of the holders of network exemptions. Since commencing the register in 2012 the AER has processed more than 1400 registrations.

1.3 Network benchmarking

2014–15 strategy: *Develop benchmarking of network businesses.*

- Measures:**
- Publish the first annual benchmarking report.
 - Draw on increased in-house technical expertise, including engineering capabilities.

Our benchmarking activities in 2014–15

The AER developed guidelines under the Better Regulation program on its use of benchmarking and other techniques to assess forecast expenditure by network businesses. We use benchmarking to assess a business's comparative efficiency and identify areas where expenditure does not seem efficient. We also use benchmarking to measure how a business's efficiency changes over time.

The AER uses regulatory information notices (RINs) to collect information from regulated energy network businesses. Economic benchmarking RINs provide information on overall efficiency. Category analysis RINs provide information on expenditure in each asset category.

The AER drew on information collected in these RINs for its electricity determinations to form a view about the efficiency of proposed forecasts of operating and capital expenditure.

In November 2014 the AER released benchmarking reports for electricity network businesses on their relative efficiency over 2006–13. In December 2014, we published economic benchmarking and category analysis RIN responses from the businesses for 2013–14.

1.4 Stakeholder engagement on network issues

2014–15 strategy: *Consult widely, including closely involving consumers in the regulatory processes.*

- Measures:**
- All stakeholders provided with an adequate opportunity to actively participate and engage in regulatory processes.
 - Stakeholders perceive the AER as a transparent and consultative decision-making body.

When assessing regulatory proposals for a network business, we use a range of strategies to seek consumer input and incorporate it in our decision making. We:

- hold public forums where consumer representatives present their views
- assist stakeholders by publishing issues papers and draft decision documents and guidelines
- publish easy-to-read factsheets summarising key points of draft and final decision documents.

Our Consumer Challenge Panel advises us on issues of importance to consumers and looks to ensure consumer perspectives, particularly of residential and small business consumers, are properly considered. Sub-groups are formed for each decision process. The panel challenges us on how we approach issues and identifies gaps when we analyse businesses' proposals. Each electricity determination also involves consultation with state and territory consumer representative groups.

We also consulted with relevant stakeholders in our reviews of incentive schemes and guidelines undertaken throughout the year, including on the STPIS for electricity transmission businesses and the pricing methodology guidelines.

Performance indicators

Provide effective network regulation

Our performance against the measures in our corporate plan and portfolio budget statements is set out in detail in the section above. Below is a short summary of the main points against each indicator for our goal of delivering better network regulation.

Decisions consistent with the legislative framework and made within statutory time limits

Mostly achieved. All decisions were consistent with the legislative framework. All but one decision was made within statutory time limits (see the discussion of the cost pass-through application for ActewAGL on page 172).

All stakeholders provided with an adequate opportunity to actively participate and engage in regulatory processes

Achieved. We have invested significantly in stakeholder engagement, engaging extensively with stakeholders, as outlined under 'Stakeholder engagement on network issues' on page 177.

Publish regulatory decisions that clearly set out how we accounted for stakeholder views, including those of the Consumer Challenge Panel

Partly achieved. Our published decisions, both draft and final, aim to set out stakeholder views and how we took them into account. The Consumer Challenge Panel and some other stakeholders have indicated they are not fully satisfied with our achievement in this area. We will work with them to address their concerns in upcoming decision processes.

Regulatory decisions draw on improved data systems, information requirements, analysis techniques and metrics

Achieved. We commissioned the first stage of a database to collect, store and report data from network businesses.

Draw on increased in-house technical expertise, including engineering capabilities

Achieved. In 2014–15 our technical advisory group provided advice on AER regulatory determinations for electricity networks and on redesigning the electricity distribution service target performance incentive scheme.

Publish the first annual benchmarking report

Achieved, but failed to meet the required date. The reports were due to be published by 30 September 2014. Draft reports were circulated for comment on 5 August to network businesses; however, publication of the final reports was delayed until 27 November to enable the AER to fully consider and incorporate further submissions from stakeholders.

Goal 2: Building consumer confidence in retail energy markets

Significant outcomes 2014–15

- Obtained penalties of \$500 000, injunctions and declarations in consent orders by the Federal Court for contraventions of the National Energy Retail Law.
- Issued 10 infringement notices for contraventions of the Retail Law.
- Redeveloped the Energy Made Easy website to improve the user experience for both consumers and retailers.
- Released annual performance and compliance reports on the retail energy market.
- Published our review of energy retailers' hardship policies and practices.
- Granted three authorisations to sell electricity and gas in retail markets.
- Completed an industry-wide Retailer of Last Resort exercise.
- Released revised compliance and retailer authorisation guidelines.

Our role in retail markets

In 2014–15 the AER regulated retail markets in Tasmania (electricity only), New South Wales, South Australia, and the ACT. Queensland adopted the National Energy Retail Law and Rules (the Retail Law) from 1 July 2015.

The Retail Law sets out the obligations of energy retailers and protections for consumers. These include rules about how retailers market their offers and retailers' responsibilities to help customers who are in financial hardship. The AER's role includes:

- monitoring and enforcing compliance with the law and its supporting rules and regulations
- regulating market entry by issuing authorisations to businesses to sell energy or granting exemptions from this requirement
- developing the Retailer of Last Resort scheme to protect customers if an energy business fails
- reporting on the performance of the market and of energy businesses; this includes energy affordability and trends in customers being disconnected for unpaid energy bills
- approving energy retailers' policies for helping residential customers who are in financial hardship and need help to manage their energy bills
- developing and managing an energy price comparison website to help small customers compare generally available energy offers.

2.1 Retail market performance monitoring and reporting

2014–15 strategy: *Monitor and report on retail energy markets and the performance of retailers active in those markets.*

Measure:

- Accurate, timely and accessible reports on the performance of the energy market within six weeks of the data being available.

Performance reporting

We released our second annual retail market performance report (for 2013–14) on 25 November 2014. For the first time, it covered New South Wales. The report consolidated quarterly data on customer service and complaints, energy bill debt, payment plans, hardship programs, energy concessions and disconnections. It also reported on energy affordability.

The AER also publishes quarterly performance data collected from energy retailers. We posted this data on the AER website on:

- 22 January 2015 for the quarter ending 30 September 2014
- 16 March 2015 for the quarter ending 31 December 2014
- 9 June 2015 for the quarter ending 31 March 2015.

Submission to review of retail reporting in the energy market

In May 2015 the AER made a submission to the Council of Australian Governments (COAG) Energy Council review of retail reporting in the energy market. Drawing on our experience with the reporting framework, the submission reported that the framework works effectively but noted opportunities for improvement by reducing duplication and streamlining reporting categories.

Retailers' hardship policies

Energy retailers must have a policy to help residential customers who are having payment difficulties to better manage their bills. The AER assesses the hardship policies of new retailers against the requirements in the Retail Law, and monitors retailers' compliance with their policies. We also assess proposed changes to approved policies. In 2014–15 we assessed and approved seven hardship policies.

In January 2015 the AER reported on its targeted review of retailers' hardship policies and practices. We did the review to better understand how retailers identify and help customers who are having difficulty paying their energy bills because of financial hardship and to share examples of good practice across industry.

The AER has seen encouraging progress in response to the review. A number of retailers said that it prompted them to review their hardship policies and processes and consider improvements to the information they provide to consumers facing payment difficulties.

2.2 Consumer engagement and information

2014–15 strategy: *Enhance the functionality of the Energy Made Easy website to provide consumers with additional tools to assist them navigate the retail energy market and understand their rights and available retail energy offers.*

Measure:

- Clear, accurate and accessible information for consumers on energy retail markets, through the Energy Made Easy website.

Website redevelopment

The AER has a price comparison website, Energy Made Easy (www.energymadeeasy.gov.au), to help customers find the best energy offers for their needs. The site provides:

- clear, accurate, current and consistent information to help energy customers make informed decisions about offers
- a price comparator, household electricity usage benchmarks, energy efficiency tips and information about consumer rights.

Residential and small business customers in states and territories covered by the Retail Law can access gas and electricity offers through the website. Customers in states and territories without the Retail Law can use features such as the electricity consumption benchmarks. These enable customers to compare their usage to that of similar-sized households in the same area.

On 25 June 2015, the AER went live with a major redevelopment of the site to improve accessibility and ease of use for consumers and retailers. For consumers, the new site compares information on retailers' offers in a clearer and more intuitive format. Key features include:

- better presentation of search results
- simplified content to help consumers navigate the energy market, such as information on understanding bills and contracts, getting help with problems and reducing energy costs.
- There will also be a short video explaining how to search for offers on the site.
- On the retailer user side, we improved the process to input offers (including bulk uploads), introduced functionality to accommodate more complex offer structures and updated the platform to deal with larger volumes of offers and users.

New electricity bill benchmarks

The AER must publish updated electricity consumption benchmarks for residential customers every three years. The purpose of the benchmarks is to allow customers to compare their household electricity usage with similar households in their area. This helps them to make informed choices about how they use energy. Retailers must include these electricity consumption benchmarks on residential customer bills.

In 2014 the AER commissioned ACIL Allen to update the benchmarks. The updated benchmarks were published on the AER website on 17 December 2014 and show a reduction in average usage in all regions. They take effect from 1 July 2015.

Review of the retail pricing information guidelines

The AER has a retail pricing guideline for energy retailers on the presentation of energy prices. The guideline aims to help customers to compare energy prices and make informed choices. It also gives direction to energy retailers about providing information for the AER's price comparator website, Energy Made Easy.

We released draft revisions to the guideline for consultation in April 2015. The changes aim to increase consumer understanding of energy offers by clarifying retailer obligations, introducing language requirements and further standardising the information on price factsheets.

Submission on retailer price variations in market contracts rule change

On 23 October 2014 the AEMC made a rule to improve the information retailers give to consumers who enter market retail contracts, particularly about whether prices can vary during the contract term.

The AEMC rule responds to a request from the Consumer Utilities Advocacy Centre (CUAC) and the Consumer Action Law Centre (CALC) to prohibit retailers from changing prices during fixed-term contracts.

The AER supported the AEMC rule but proposed further measures to improve consumer understanding of the options available to them. We proposed consulting on refinements to Energy Made Easy and energy price factsheets as part of our 2015 review of the *Retail Pricing information Guideline*.

The AER also met with representatives of the AEMC, CALC, CUAC and the Energy Retailers Association Australia to discuss the role each can play in improving consumer understanding of the energy market and increasing customer confidence to participate in it.

Customer Consultative Group

The AER set up the Customer Consultative Group in 2009 to help us understand consumer and small business views on retail energy issues. Its members represent a range of stakeholder interests and raise energy issues that affect them. This informs our understanding of key issues impacting on energy customers.

The group meets three times a year and shares information out of session. At meetings in August and November 2014 and March 2015 it discussed issues such as the AER's enforcement action against Snowy Hydro Ltd, the report into the review of retailers' hardship programs and current retail market compliance and enforcement priorities.

New consumer education resources

The AER launched two new educational videos in 2014–15. The first, *Could you be doing more to pay less on your energy bills?*, raises awareness of how consumers can manage and reduce their energy costs. The second, *Are you having difficulty paying your energy bill?*, encourages consumers to contact their retailer early if they are having trouble paying their bill.

Other activities to improve consumer engagement and information

During 2014–15 the AER promoted better consumer understanding of the energy framework through a number of engagement activities:

- We conducted workshops in Hobart, Canberra and Sydney with consumer caseworkers to improve their clients' understanding and awareness of customer rights and protections under the Retail Law and of the AER's role in this area. We provided targeted material that they could distribute through their networks to reach vulnerable and disadvantaged customers and those who might have already established a trusting relationship with intermediaries such as financial counsellors.
- We participated in a national energy affordability forum run by the Energy Retailers Association of Australia in Sydney on 12 August 2014. The forum brought together over 70 representatives from energy retailers, consumer groups, ombudsman schemes, governments and regulators. It generated many ideas to explore within a shared responsibility environment, with a particular focus on strengthening consumer engagement with the retail energy market. The association is helping to develop working groups for priority initiatives.
- We hosted a stall at the Energy and Water Ombudsman of New South Wales anti-poverty forum in October 2014. The event raised awareness of issues affecting consumers in financial hardship. Topics discussed included how the ombudsman can help consumers, changes to debt collection and credit reporting laws, access to hardship programs and removal of electricity price regulation. The AER distributed factsheets and other resources for consumers and caseworkers.
- We made a presentation to Jemena's customer council in December 2014. This outlined the national exemptions framework and what it means for gas sellers and for gas customers in New South Wales.
- We presented at the South Australian Council of Social Services Hardship and Affordability Conference in April 2015. The conference brought together representatives from the telecommunications, water and energy sectors to share better practice ideas and initiatives to address customer hardship and affordability.
- We met regularly with staff from state energy ombudsmen to discuss topics including complaints received, systemic issues and emerging trends in the energy sector.
- We participated in the Queensland Government's Consumer and Industry Reference Group. This was a forum for stakeholders to comment directly on government policy and decision making related to the commencement of the Retail Law in Queensland on 1 July 2015.
- We attended a number of conferences focused on consumer issues including the annual Financial Counselling Australia conference and the National Consumer Congress. The congress discussed a range of consumer protection topics, including price comparator websites and changes to the energy sector.

2.3 Retail market entry and exit

2014–15 strategy: *Assess applications for entry into the retail energy market and provide guidance to potential applicants so that authorised retailers and exempt sellers are aware of and can meet their obligations under the Retail Law.*

Measure:

- Assess applications from businesses to become energy retailers or grant exemptions from the requirement within 12 weeks of the receipt of all relevant information.

Authorisations

A business must apply to the AER for authorisation to sell energy, demonstrating appropriate capacity and suitability to perform as a retailer. We publish the details of all authorised retailers in a public register. We also publish applications for authorisation or to transfer or surrender an authorisation.

In 2014–15 the AER granted authorisations to:

- OC Energy Pty Ltd (15 August 2014)
- Next Business Energy Pty Ltd (12 September 2014)
- Locality Planning Energy Pty Ltd (13 November 2014).

Consultation on Retailer authorisation guideline

The AER's *Retailer authorisation guideline* explains the requirements for becoming authorised and how to transfer, surrender or revoke an authorisation. We revised the guideline in 2014–15 to improve readability and the transparency of our assessment process. The revised guideline was published on 18 December 2014.

Exemptions

Some energy sellers may be exempt from the requirement to obtain authorisation to sell electricity and gas. There are three types of exemptions:

- **Deemed exemptions**—for small-scale selling arrangements where the costs of registration would outweigh the benefits of increased regulation. A person covered by a deemed exemption need not apply to or register with the AER. Conditions generally apply.
- **Registrable exemptions**—for defined classes of energy selling activities that need regulatory oversight, usually because of scale and market impact. These exemptions apply to a particular person or company for a particular site. They must be registered with the AER. As at 30 June 2015 there were 1285 published registrable exemptions.
- **Individual exemptions**—for specific situations where the activity is not covered by a deemed or registrable exemption. In 2014–15 the AER granted 50 individual exemptions.

Variation of individual exemptions

In July 2014 the AER reviewed its approach to regulating businesses that sell energy through solar power purchase agreements, including exemption conditions for these types of sellers.

The AER attached new conditions to these exemptions, limiting providers to only selling electricity through these agreements. Following public consultation the AER amended the exemptions for six businesses to include these new conditions.

Approaches to regulation

With rapid technological change, new and innovative services and products are being offered to customers by alternative energy sellers. These models were not explicitly contemplated when the Retail Law was drafted, and we are refining our approach to regulating them through the authorisations and exemptions framework.

On 2 July 2014 the AER published its statement of approach on regulating alternative energy sellers. The statement provides guidance to applicants on whether they need to hold a retail authorisation to sell energy.

Building on this work, we released an issues paper on 18 November 2014 on options for regulating alternative energy sellers, including models where storage is involved. The paper invited comments on two options for regulating the sale of energy by these businesses (specifically, requiring authorisation or an exemption subject to robust conditions). As part of our consultation we held two public forums, on 29 January and 5 February 2015, chaired by AER board member Jim Cox. Work in this area is continuing and will be progressed within a forthcoming review of our *Exempt selling guideline*.

Retailer of Last Resort

The AER manages the Retailer of Last Resort (RoLR) scheme. If an energy retailer fails, its customers are transferred to another retailer so that they continue to receive electricity and/or gas supply. In 2014–15 we:

- reappointed ActewAGL as the default gas RoLR for the ACT
- appointed Origin Energy as an additional RoLR for electricity and gas across a number of distribution networks
- appointed AGL and Origin Energy as default gas RoLRs in Queensland, in preparation for Queensland adopting the Retail Law on 1 July 2015
- determined a RoLR cost recovery application by AGL for \$29 287. The amount to be paid to AGL was split between three distribution businesses in New South Wales and South Australia.

The AER must develop and maintain a RoLR plan and conduct regular RoLR exercises with plan participants. We began consultation on amendments to the RoLR plan on 10 June 2015. The proposed changes are improvements based on a review of outcomes from RoLR exercises, and account for new Queensland specific RoLR requirements.

We conducted a RoLR exercise for electricity industry participants on 17 June 2015.

2.4 Promoting retailer compliance

2014–15 strategy: *Promote a culture of regulatory compliance by energy businesses, including through compliance monitoring activities, enforcement activity and reviews.*

- Measures:**
- Apply a risk-based approach to compliance and monitoring activities.
 - Investigate and close major compliance matters in a timely manner and take appropriate enforcement action.
 - Undertake compliance and enforcement activities that improve market outcomes for consumers.

Retail enforcement action

The AER monitors compliance with the Retail Law and Rules through market surveillance; targeted compliance reviews; and information from other regulators, ombudsman schemes and consumer groups. Our *Compliance and enforcement statement of approach* sets out how we do this. The AER can respond to breaches by:

- accepting an administrative resolution
- seeking a court enforceable undertaking
- issuing an infringement notice of up to \$4000 for an individual or \$20 000 for a body corporate
- starting court action with a civil penalty of up to \$20 000 for an individual or \$100 000 for a body corporate for each breach.

Court action

On 21 November 2014 the AER began proceedings in the Federal Court against EnergyAustralia for contraventions of the Retail Law. This was our first court action under the Retail Law and Rules. It followed an AER/ACCC investigation into telemarketing practices by EnergyAustralia and Bright Choice. The AER alleged that EnergyAustralia had failed to obtain the explicit informed consent of customers before transferring them to new energy plans.

EnergyAustralia contracted Bright Choice to provide its telemarketing services during 2012 and 2013. Bright Choice contacted prospective customers on EnergyAustralia's behalf. The AER alleged that in a number of instances Bright Choice sales agents signed up customers in South Australia and the ACT without the customer's knowledge or consent. Some of these customers were later transferred to EnergyAustralia. On 27 March 2015 the Federal Court ordered by consent that EnergyAustralia pay a penalty of \$500 000.

In separate concurrent proceedings brought by the ACCC, the Federal Court found that EnergyAustralia and Bright Choice had made false or misleading representations to consumers. The court imposed penalties of \$1 million on EnergyAustralia and \$100 000 on Bright Choice.

The maximum penalty available under the Competition and Consumer Act is \$1.1 million per contravention. The equivalent penalty under the Retail Law is \$100 000.

Infringement notices

The AER can issue an infringement notice if it has reason to believe that a business has contravened a civil penalty provision of the Retail Law or Rules. Payment of an infringement notice penalty is not an admission of guilt but finalises the matter. An infringement notice carries a penalty of \$20 000.

In late 2014 and 2015 the AER issued eight infringement notices to electricity distributors for incidents when customers known to require life-support equipment unexpectedly lost electricity supply:

- In January 2015, Ausgrid (one notice), Endeavour Energy (two notices) and Essential Energy (two notices) paid penalties totalling \$100 000.
- In March 2015, Essential Energy, Ausgrid, and TasNetworks (one notice each) paid penalties totalling \$60 000.

The businesses reported these incidents to the AER as required under the Retail Law and Rules.

On 5 May 2015, AGL South Australia and AGL Sales each paid a penalty of \$20 000 under AER infringement notices for disconnecting electricity supplies to nine hardship customers or customers on payment plans. A retailer cannot disconnect customers who are participating in a hardship program or meeting a payment plan and must follow certain steps before disconnecting a service in other circumstances.

Retail compliance checks

Compliance checks

Retailers report to the AER on their compliance with the Retail Law and Rules. In 2014–15 the reports showed a rise in wrongful disconnections and breaches of the billing provisions. Reported breaches affecting significant numbers of customers were billing delays and failure to inform customers who had been overcharged.

In response we published three compliance checks to highlight the relevant provisions and emphasise the importance of effective compliance systems. We encouraged retailers to distribute the checks to employees and do internal reviews of compliance.

Stakeholder forums

We held forums for energy retailers and distributors on 20 November 2014 and 10 June 2015. These forums included presentations on our issues paper for regulating alternative energy sellers and our 2013–14 annual compliance and performance reports.

Annual energy retail law compliance report

In November 2014 the AER published its second annual retail compliance report. The report covered compliance monitoring and enforcement activity in 2013–14 and priority areas for the coming year. The report noted our concerns about energy company performance against provisions on disconnection of customers in financial hardship, customer consent, billing, and protections for consumers reliant on life-support equipment.

Consultation on retail compliance guidelines

In September 2014 the AER released version 3 of its compliance procedures and guidelines. The revisions streamlined the reporting framework and reduced the number of reportable obligations. Businesses must now report within two days any breaches of life-support obligations or wrongful disconnection of hardship customers in jurisdictions where the Retail Law applies.

Performance indicators

Build consumer confidence in retail energy markets

Our performance against the measures in our corporate plan and portfolio budget statements is set out in detail in the section above. Below is a short summary of the main points against each measure for our goal of building consumer confidence in retail energy markets.

Undertake compliance and enforcement activities that improve market outcomes for consumers

Achieved. In 2014–15 we initiated 11 enforcement activities including one court action and 10 infringement notices, obtaining \$500 000 in court-awarded penalties and \$180 000 in infringement notice penalties. These monies are paid into consolidated revenue. We also released three Compliance Checks to provide guidance to business on their obligations under the Retail Law and held two forums for stakeholders on compliance with the Retail Law.

Accurate, timely and accessible reports on the performance of the energy market within six weeks of the data being available

Mostly achieved. We published an annual performance report and three quarterly updates, all but one of which were published on our website within six weeks.

Assess applications from businesses to become energy retailers or grant an exemption from the requirement within 12 weeks of the receipt of all relevant information

Achieved. We assessed and approved three applications for businesses and granted 50 exemptions. The majority were granted within 12 weeks of receiving all relevant information.

Clear, accurate and accessible information for consumers on energy retail markets, through the Energy Made Easy website

Achieved. The redeveloped Energy Made Easy website went live on 25 June 2015. Key improvements included clearer and simpler presentation of offers and more accessible content to help consumers navigate the energy market. The website also includes videos to help consumers understand energy offers.

Goal 3: Supporting the efficient operation of energy markets

Significant outcomes 2014–15

- Obtained total penalties of \$400 000 in consent orders by the Federal Court for failures by Snowy Hydro Ltd to comply with dispatch instructions from the Australian Energy Market Operator.
- Published four electricity and two gas reports on high price events in wholesale markets.
- Participated in AEMC rule change processes on ramp rates, proposed by the AER, and generator bidding.
- Published the *State of the energy market 2014* report.

The AER monitors and enforces compliance in wholesale electricity and gas markets:

- the National Electricity Market—an \$8 billion per year spot market in eastern and southern Australia, in which more than 200 generators compete to dispatch electricity
- spot markets for gas, in which over 350 petajoules are traded each year in market hubs in Adelaide, Sydney, Brisbane, Victoria and Wallumbilla (Queensland).

3.1 Wholesale market monitoring and reporting

2014–15 strategy: *Report on market activities and pricing outcomes to detect consumer harm, market irregularities and manipulation.
Publish information on energy markets.*

Measures:

- Publish the annual State of the energy market report.
- Report on outcomes in gas spot markets in Victoria, short-term trading markets and the Wallumbilla hub.
- Publish reports on extreme price events in the National Electricity Market and significant price variations in spot gas markets, within statutory timeframes.

Significant event reporting

The AER publishes a report whenever the spot price for electricity exceeds \$5000 per megawatt hour. We also report if an ancillary service price exceeds \$5000 per megawatt for a sustained period. The reports identify and describe factors contributing to the high prices such as rebidding, network issues, changes to demand and generator availability. We also report on significant price variations for gas.

During 2014–15 we published reports on four electricity and two gas events:

- high spot electricity prices on 5 March 2015 in Queensland (published 7 May 2015)
- high spot electricity prices on 15 January 2015 in Queensland (published 17 March 2015)
- high spot electricity prices on 18 January 2015 in Queensland (published 16 March 2015)
- high spot electricity prices on 17 December 2014 in Queensland (published 2 March 2015)
- a significant gas price change on 17 October 2014 in the gas short-term trading hub in Brisbane (published 8 December 2014)
- a significant gas price change on 7 July 2014 in the gas short-term trading hub in Brisbane (published 24 September 2014).

We issued the electricity report for the 17 December 2014 event one day after the required timeframe. All the other reports met our obligations.

Weekly reports on wholesale energy markets

We publish on our website weekly reports that cover:

- activity in the national electricity market, including detailed analysis of extreme prices (above \$250 per megawatt hour or below -\$100 per megawatt hour) as they occur
- activity in the Victorian gas market, in the short-term gas trading markets operating in Adelaide, Sydney and Brisbane, and at the Wallumbilla hub.

Our website

The AER publishes information about wholesale markets on its website (www.aer.gov.au) including charts and tables on market factors such as:

- spot prices, including extreme prices, in the national energy market
- electricity contract (derivative) prices
- electricity demand and generation, including by plant technology
- electricity trade between regions
- costs of managing frequency variations in electricity supply
- spot gas prices in the short-term trading market and Victorian gas market, including prices of ancillary services.

State of the energy market 2014

On 19 December 2014 the AER published its eighth *State of the energy market* report, which provides a user-friendly overview of energy market activity over the previous 12 to 18 months. The report is written in accessible language to reach a wide-ranging audience. Our stakeholder surveys and other engagement provide consistently positive feedback on the report.

3.2 Wholesale market compliance activity

2014–15 strategies: *Promote more efficient, competitive, transparent and secure energy wholesale [and retail] markets through compliance monitoring activities, investigations and reviews.*

Take effective, targeted and timely enforcement action when necessary, and promote best practice through compliance publications and audits.

Measures:

- Apply a risk-based approach to compliance and monitoring activities.
- Investigate and close major compliance matters in a timely manner and take appropriate enforcement action.
- Publish quarterly compliance reports within six weeks of the end of the relevant quarter.
- Conduct audits of participant systems that are critical to market efficiency and energy security.
- Conduct a series of targeted compliance reviews.

Our compliance monitoring activities

The AER's *Compliance and enforcement statement of approach* sets out how we monitor compliance, how we respond to potential breaches, and the factors we may consider when deciding whether to take enforcement action.

We take a risk-based approach to target and prioritise our monitoring and compliance activity. The risk assessment involves analysing and ranking each obligation to determine its compliance risk, taking into account both the impact and the probability of a breach.

Enforcement action

On 3 July 2014 the AER instituted proceedings in the Federal Court of Australia, alleging Snowy Hydro failed to follow dispatch instructions issued by the wholesale market operator AEMO on nine occasions in 2012 and 2013. On each occasion, Snowy Hydro generated more power than the dispatch instruction required.

The Federal Court ordered by consent that Snowy Hydro pay total penalties of \$400 000. These were the first court ordered penalties for breaches of the National Electricity Rules. The court also ordered by consent that Snowy Hydro appoint an independent expert to review the accuracy of its internal documents relating to compliance with dispatch instructions. In conjunction with the court's orders, Snowy Hydro provided an enforceable undertaking to the AER on the operation of generators under certain conditions. This is the first enforceable undertaking accepted by the AER under the National Electricity Law.

Compliance reviews

During the year the AER renewed its focus on ensuring that participants comply with the information requirements of the National Gas Bulletin Board through targeted compliance

reviews. The bulletin board aims to make gas production and pipeline flows more transparent. This helps with trading, which is increasingly important for the market given east coast liquefied natural gas exports. In 2014–15 we engaged with industry participants about meeting obligations to submit all required information for the bulletin board to the Australian Energy Market Operator.

We also refined our compliance monitoring framework for the Wallumbilla Gas Supply Hub, launched in 2014. We published data on the hub in the industry statistics section of our website and expanded our monitoring framework to include this market.

In electricity, we conducted technical audits of electricity generators and transmission network service providers. The audits assessed whether participants maintain robust and effective compliance programs, consistent with good electricity practice.

In 2014–15 we reviewed Hydro Tasmania's performance standards compliance program for the Gordon Power Station. This was our first technical audit of an energy business in Tasmania. Hydro Tasmania was in the final stages of implementing a revamped technical compliance approach and supporting business systems; overall we were satisfied that Hydro Tasmania had sufficient processes in place. We also launched a review of EnergyAustralia's Yallourn power station in Victoria.

We also assessed distributors' compliance with a new process for connecting generators to a distribution network. The new process aims to provide a clearer, more transparent connection process with defined timeframes. We engaged with some network businesses on their compliance, and will further assess technical aspects as part of our engagement with distributors on their annual planning reports.

Electricity transmission and distribution businesses are required to publish annual planning reports (APRs) which outline the future needs of their networks over a minimum 10-year period. The AER is undertaking a review of APRs to ensure they comply with the Electricity Rules and promote the underlying policy objectives (i.e. providing timely information to non-network service providers about investment opportunities). As part of the review process, the AER has sought to work collaboratively by holding workshops and follow-up meetings with network businesses. The review of transmission businesses was conducted in 2014 and has resulted in commitments to improve the quality of APRs. The review of distribution businesses commenced in early 2015 and is expected to be finalised in the next few months.

Quarterly compliance reports

The AER publishes quarterly reports on its compliance monitoring and enforcement activities in wholesale gas and electricity markets. The reports summarise the results of investigations (including special reports on significant market or power system events), compliance audits, targeted compliance reviews and rebidding inquiries undertaken during the quarter.

In 2014–15 we published compliance reports on:

- 1 August 2014 for the April to June 2014 quarter
- 11 November 2014 for the July to September 2014 quarter
- 27 February 2015 for the October to December 2014 quarter
- 14 May 2015 for the January to March 2015 quarter.

COAG Energy Council review of enforcement regimes

On 24 October 2014 we made a submission on recommendations arising from the COAG Energy Council's review of enforcement regimes under the national energy laws.

3.3 Wholesale energy market development

2014–15 strategy: *Promote more efficient, competitive, transparent and secure energy wholesale and retail markets through compliance monitoring activities, investigations and reviews.*

Measure:

- Engage in policy reviews, rule change processes and reform implementation.

Our involvement in energy market development

The AER draws on its regulatory and monitoring work to advise the COAG Energy Council, the AEMC and other bodies on wholesale market issues. We engage in policy reviews, rule change processes and reform implementation by sharing information, making submissions and participating in forums.

Submissions

We made submissions to the following AEMC rule change processes.

Generator rebidding

In November 2013 the South Australian Government submitted a proposal to the AEMC for changes to the electricity rules to address concerns that the current good faith provision does not sufficiently regulate participant behaviour.

On 16 April 2015 the AEMC released a draft rule that would recast generators' offers as continuing representations of their willingness to provide supply at the prices specified. The draft rule would also introduce new reporting requirements for rebids made close to dispatch.

The AER made a submission on the draft rule on 11 June 2015.

Ramp rate rule change

In August 2013 the AER submitted a proposal to the AEMC to change the electricity rules to require the rate at which generators alter their output (the ramp rate) to reflect the plant's technical capability.

The AER made a submission on 9 October 2014 which broadly supported a preferred rule developed through the consultation process. On 5 February 2015 the AER made a further submission to the AEMC's options paper, which supported extending the existing obligations to a wider range of generators.

The AEMC released a final rule change on 19 March 2015 generally consistent with our submissions. The change takes effect from July 2016.

Participation in reviews and inquiries

We participated in the following reviews and inquiries.

Competition policy (Harper) review

On 24 November 2014 the AER made a submission to the independent review of Australia's competition laws and policy (the Harper review) commissioned by the Australian Government.

Our submission supported proposals to finalise the energy reform agenda, including retail market and reliability standards reforms.

Energy White Paper

On 3 December 2014 the AER made a further submission in response to the Energy White Paper. We noted that electricity networks are entering a period of fundamental change. Drivers such as demand uncertainty, network cost pressures, the need to integrate renewable generation and electric vehicles, and changes brought about by new technologies will affect the way energy is delivered to and by consumers.

The AER has found that the current regulatory framework can accommodate changes in technology and market developments and is conducive to competition. The framework has also been strengthened by recent reforms and our Better Regulation guidelines.

East coast wholesale gas market and pipeline framework review

On 30 March 2015 the AER made a submission to the AEMC's East Coast Wholesale Gas Market and Pipeline Framework Review. The submission highlighted our work to improve and continue to improve the efficiency of gas markets, including information transparency.

Governance review

On 15 May 2015 the AER made a submission to the COAG Energy Council's review of governance arrangements for Australian energy markets. We stated that the current arrangements effectively support efficient markets and that key reforms have been implemented. We noted the potential for further improvements relating to rule change processes and COAG Energy Council priority setting.

The submission also addressed specific questions raised in the issues paper about the AER. We outlined how the AER operates, including internal governance arrangements, reporting and accountability frameworks, and relationships with other institutions.

Senate inquiry into electricity network companies

On 18 February 2015 the AER appeared before the Senate Environment and Communications References Committee inquiry into the performance and management of electricity network companies. We also made a submission on 18 December 2014, emphasising that network proposals are subject to significant scrutiny to ensure that customers pay no more than necessary for a safe and reliable electricity supply. We also noted that recent reforms have strengthened the AER's ability to promote efficient outcomes for electricity consumers.

COAG Energy Council review of pipeline capacity information

On 18 July 2014 the AER made a submission to the COAG Energy Council consultation paper on whether mechanisms for trading gas transmission pipeline capacity could be improved. We supported enhanced information transparency but did not support proposals for a cost recovery mechanism for industry where more information on pipeline capacity is required.

AEMC financial resilience review

On 25 September 2014 the AER made a submission to the AEMC's national energy market financial resilience review. The commission's second interim report recommended changes to make the RoLR scheme more effective, including 'stability arrangements' to apply to a large participant failure. Our submission supported the introduction of separate arrangements for a large participant failure. We also supported changes to encourage more companies to become retailers of last resort.

Energy Intermarket Surveillance Group

The AER is a founding member of the Energy Intermarket Surveillance Group, the peak and only international group coordinating and sharing skills between energy market surveillance and enforcement bodies. It is a not-for-profit organisation representing 17 electricity markets from North America, Latin America, South-East Asia, Australia and New Zealand.

The AER participated in meetings of the group in October 2014 and May 2015 at which energy market monitoring agency representatives discussed electricity market monitoring, compliance and design issues.

Performance indicators

Support efficient wholesale energy markets

Our performance against the measures in our corporate plan and portfolio budget statements is set out in detail in the section above. Below is a short summary of the main points against each measure for our goal of supporting the efficient operation of energy markets.

Publish quarterly compliance reports within six weeks of the end of the relevant quarter

Mostly achieved. Four quarterly compliance reports were published, three within six weeks of the end of each relevant quarter. The December quarter report was published on 27 February.

Conduct audits of participant systems that are critical to market efficiency and energy security

Achieved. Our audit activity was reported in our quarterly compliance reports.

Conduct a series of targeted compliance reviews

Achieved. We conducted one targeted compliance review per quarter, predominantly focusing on obligations around the National Gas Bulletin Board.

Report on outcomes in gas spot markets in Victoria, STTM and the Wallumbilla Hub

Achieved. We published weekly reports on activities in these markets.

Publish reports on extreme price events in the NEM and significant price variations in spot gas markets, within statutory timeframes

Achieved, with an exception. We published six reports. We issued the report for the 17 December 2014 electricity event one day after the required timeframe. All the other reports met our obligations.

AER-wide measure relevant to supporting the efficient operation of energy markets

Publish the AER's annual State of the Energy Market Report

Achieved. We published the eighth State of the Energy Market Report on 14 December 2014.

Apply a risk-based approach to compliance and monitoring activities

Achieved. We take a risk-based approach to our monitoring and compliance activity, analysing and ranking compliance risk, taking into account both the impact and the probability of a breach.

Investigate and close major compliance matters in a timely manner and take appropriate enforcement action

Achieved. See 'Enforcement action' on page 195.

Write all public documents clearly and include plain English explanations

Achieved. AER network decisions are accompanied by factsheets that explain how we made our assessment, and how each decision will affect consumers. We also produce a range of material targeted at consumers that is written in plain English.

Internal training is provided to all staff on writing clearly and in plain English.

Stakeholders perceive the AER as a transparent and consultative decision-making body

The AER periodically commissions independent stakeholder surveys to assess how well we meet the needs of stakeholders. Outcomes from the most recent survey were reported in the 2013–14 annual report.

Part 4

Management and accountability

Goal 4: Increase our organisational effectiveness through a commitment to our people, planning, systems and stakeholder engagement

2014-15 strategies

- Build organisational capability and knowledge sharing with well trained and supported people.
- Promote a safe, healthy and respectful work environment for our people.
- Streamline our management of projects by using the skills and experience of our people.
- Transform our specialist legal and economic services to increase the effectiveness of our operations.
- Transform our corporate support services and systems to increase the effectiveness of our operations.
- Implement a comprehensive strategy that supports our goals to ensure effective communication with our diverse audiences.
- Lessen the compliance burden on business by investigating and implementing options for reducing regulation (red tape) while maintaining or improving regulatory outcomes.

Corporate governance

This chapter reports on ACCC and AER governance, financial results, people, information management and other administrative activities. The AER's staff, resources and facilities are provided through the ACCC.

The agency's corporate governance framework equips it to achieve its strategic goals while complying with policies and legislation, maintaining performance standards and making the most cost-effective use of resources. Senior leadership

The ACCC's senior leadership comprises members of the Commission (appointed by the Governor-General) and Senior Executive Service (SES) employees.

Senior leadership of the AER comprises the AER Board and SES employees who are engaged exclusively on energy matters.

Details of the leadership structure are in figure 2.1.

Australian Competition and Consumer Commission

The ACCC has a chair, two deputy chairs, four full-time members and four associate members. Their names and appointment terms are shown in table 4.1. The appointment of the fourth full-time member was finalised in June 2014.

Table 4.1: Terms of appointment—current ACCC members at 30 June 2015

Position	Name	Appointed until
Chairperson	Rod Sims	31 July 2016
Deputy chairpersons	Delia Rickard	3 June 2017
	Michael Schaper	29 May 2018
Members	Cristina Cifuentes	29 May 2018
	Sarah Court	30 April 2018
	Jill Walker	11 August 2016
	Roger Featherston	12 June 2019
Associate members	Paula Conboy	30 September 2019
	Christopher Chapman	13 October 2015
	James Cox	26 June 2017
	Mark Berry	31 March 2019

Chairperson**Mr Rod Sims**

Rod Sims was appointed Chairperson of the ACCC in August 2011 for a five-year term.

Rod has extensive business and public sector experience. Before he was appointed to the ACCC, he was the chairman of the Independent Pricing and Regulatory Tribunal (IPART) of New South Wales, a commissioner on the National Competition Council, Chairman of InfraCo Asia, a director of Ingeus Limited and a member of the Research and Policy Council of the Committee for Economic Development of Australia. He was also a director of Port Jackson Partners Limited, where he advised the CEOs and boards of some of Australia's top 50 companies on commercial corporate strategy over many years. Rod relinquished all of these roles on becoming chair of the ACCC.

Rod is also a past chairman of the New South Wales Rail Infrastructure Corporation and the State Rail Authority and was a director of a number of private sector companies. During the late 1980s and early 1990s, Rod was the Deputy Secretary of the Commonwealth Department of the Prime Minister and Cabinet and responsible for the economic, infrastructure and social policy and the Cabinet Office. He was also a Deputy Secretary of the Department of Transport and Communications.

Rod Sims holds a first-class honours degree in Commerce from the University of Melbourne and a Master of Economics from the Australian National University.

Deputy chairs

Ms Delia Rickard



Delia Rickard was appointed to the position of Deputy Chairperson of the ACCC in June 2012 for five years.

Delia has extensive public service experience in consumer protection. Before she was appointed to the ACCC, she was the Senior Executive Leader for Consumers, Advisers and Retail Investors at the Australian Securities and Investments Commission (ASIC). She was also ASIC's ACT Regional Commissioner. Delia led much of ASIC's consumer protection work in financial literacy and education, vulnerable and disadvantaged consumers, dispute resolution schemes, stakeholder relations and industry self-regulation. She was responsible for developing the National Financial Literacy Strategy and led ASIC's implementation of the government's Super Choice policy. Delia was also the founding chair of ASIC's Corporate Social Responsibility Program.

Delia is a former head of the ACCC's Consumer Protection Branch and was a member of the secretariat to the Wallis inquiry into the regulation of Australia's financial system. She was also a member of the Australian Payments System Board for a number of years and a member of the steering committee for all four ANZ National Financial Literacy Surveys.

She is a trustee of the Jan Pentland Foundation, an organisation dedicated to supporting the financial counselling sector; and a judge for the annual MoneySmart Week awards.

In the January 2011 Australia Day Awards, Delia was awarded the Public Service Medal for her contribution to consumer protection and financial services.

Delia is a member of the ACCC's Enforcement, Communications, and Adjudication committees.

Delia holds a Bachelor of Arts and a Bachelor of Law from the University of New South Wales.

Dr Michael Schaper



Michael Schaper was appointed to the ACCC as Deputy Chairperson with knowledge of and experience in small business in July 2008 for five years. He was reappointed in May 2013 for a second five-year term.

Michael has extensive experience in small business through his previous roles as ACT Small Business Commissioner, Dean of Murdoch University Business School and head of the School of Business at Bond University.

He is a previous president of the Small Enterprise Association of Australia and New Zealand. He has been a member of the board of the International Council for Small Business and has held the foundation professorial chair in Entrepreneurship and Small Business at the University of Newcastle. Before this, he was employed as a senior lecturer at Curtin University and was responsible for the university's entrepreneurship degree programs.

Between 2001 and 2003, Michael held several posts as visiting professor at the Ecole de Management in Lyon, France, and the University of St Gallen in Switzerland.

In addition to his extensive academic career, Michael has worked as a professional small business adviser and has owned a number of new business start-ups.

In 2009, he received the National Small Business Champion Award from the Council of Small Business Organisations of Australia.

He is the author or co-author of 10 business management books and has been a regular columnist for a number of national magazines, newspapers and journals on business issues. He has also worked as a policy adviser for both state and Australian governments.

Michael is a member of the ACCC's Enforcement, Adjudication, and Infrastructure committees.

He holds a PhD and a Master of Commerce from Curtin University, as well as a Bachelor of Arts from the University of Western Australia.

Members

Ms Cristina Cifuentes



Cristina Cifuentes was appointed an ACCC Commissioner in May 2013 for five years. From May 2013, she also became the Commonwealth full-time member of the AER.

Cristina has a breadth of experience in both the public and private sectors across public policy, finance and utility regulation. She has held positions at the Reserve Bank of Australia and the New South Wales Treasury. She served as the state part-time member of the AER between 2010 and 2013 and was a member of the Independent Pricing and Regulatory Tribunal of New South Wales between 1997 and 2006.

Cristina chairs the ACCC's Communications Committee and Infrastructure Committee.

Before becoming an ACCC Commissioner, Cristina held a number of directorships, including with the Hunter Water Corporation and First State Super Trustee Corporation.

Cristina holds a first-class honours degree in Law from the University of Technology, Sydney, and a degree in Economics from Sydney University.

Ms Sarah Court



Sarah Court was appointed as an ACCC Commissioner in April 2008 for five years. She was reappointed in May 2013 for a second five-year term.

She is a former Senior Executive Lawyer and Director with the Australian Government Solicitor. She brings to her role extensive experience in Commonwealth legal work, including restrictive trade practices, consumer protection and law enforcement litigation.

Sarah oversees the ACCC's enforcement and litigation activities and she is chair of the ACCC's Enforcement Committee. She takes an active role in the ACCC's enforcement and compliance work and engages closely with investigating teams and lawyers on ACCC policies and enforcement investigations. She also sits on the ACCC's Mergers Review Committee, Adjudication Committee and Infrastructure Committee.

Sarah holds a Bachelor of Arts (Jurisprudence) and a Bachelor of Law (Honours) from the University of Adelaide as well as a Graduate Diploma in Legal Practice from the Australian National University.

Dr Jill Walker



Jill Walker was appointed as a Commissioner of the ACCC in August 2009 for five years. She was reappointed in August 2014 for a further two years.

Jill is the chair of the ACCC's Mergers Review Committee and Adjudication Committee and is also a member of the Enforcement Committee.

She is an Associate Member of the New Zealand Commerce Commission and Chair of the International Air Services Commission.

Jill has extensive experience in trade practices and antitrust economics. Before joining the ACCC, she was a member of the Australian Competition Tribunal and worked as an economic consultant for LECG Ltd. She has also worked for the Network Economics Consulting Group and CRA International. She was a member of the South Australian Government's panel of expert assessors assisting the District Court in hearing appeals under the *Essential Services Commission Act 2002* and the *Gas Pipelines Access (South Australia) Act 1997*.

Jill was previously employed as an economic adviser by the ACCC and its predecessors, the Prices Surveillance Authority and the Trade Practices Commission. During this time she advised on significant cases, investigations, and authorisations.

Jill holds a Bachelor of Arts in Economics and a PhD in Land Economy from the University of Cambridge. She also holds a Master of Economics from the University of Massachusetts.

Mr Roger Featherston

Roger Featherston was appointed as a Commissioner of the ACCC in June 2014.

Roger is a full-time commissioner who has a wealth of experience from his previous roles as a lawyer in the private and public sectors. He was formerly a partner at Mallesons Stephen Jaques, leading the firm's competition law team and advising a broad spectrum of commercial and governmental clients on competition law and enforcement issues, consumer protection, informal merger clearances, access and pricing issues and telecommunications matters.

In addition to this extensive private sector experience, Roger acted for the former Trade Practices Commission early in his career and, for the two years before his current appointment, acted as Special Counsel at the ACCC advising on a range of major competition and consumer protection matters.

Roger is a life member and former chair of the Business Law Section of the Law Council of Australia and a member and former chair of its Competition and Consumer Law Committee.

He is a member of the ACCC's Enforcement Committee, Mergers Review Committee and Communications Committee.

Roger holds a Bachelor of Laws (Honours) and a Bachelor of Economics from the Australian National University.

Australian Energy Regulator

The Chair of the AER Board is Paula Conboy. The board of the AER has two members.

Table 4.2: Terms of appointment—current AER members at 30 June 2015

Position	Name	Appointed until
Chair	Paula Conboy	30 September 2019
	Andrew Reeves	30 September 2014*
Members	Cristina Cifuentes	29 May 2018
	Jim Cox	26 June 2017

* Andrew Reeves was acting Chair from 18 July to 30 September 2014.

Chair

Ms Paula Conboy



Paula Conboy was appointed as full-time state/territory member and Chair of the AER in October 2014.

Paula has over 20 years' experience in public utility regulation in Australia and Canada. She has held roles at the Industry Commission, Sydney Water Corporation and Ontario electricity distribution utility PowerStream Inc.

In 2010 Paula was appointed to the Ontario Energy Board, where she oversaw policy development and adjudicated applications for cost of service, performance-based regulation, mergers and acquisitions and leave to construct electricity and gas networks. She was an active member of CAMPUT (Canada's Energy and Utility Regulators) and chaired its 2013 annual conference. She is also a mentor with the International Confederation of Energy Regulators' Women in Energy initiative.

Paula holds a Bachelor of Science and Master of Science in Agricultural Economics from Guelph University and conducted her thesis work at La Trobe University.

Outgoing Chair

Mr Andrew Reeves



Andrew Reeves served as Chair of the AER from July 2010 to July 2014 and then as acting Chair until 30 September 2014. He was previously appointed as an AER Board member in July 2008 and also served as Chair of the Utilities Commission of Northern Territory in 2009 and 2010.

Before his AER appointment, Andrew was the Tasmanian Government Prices Oversight Commissioner and Regulator of the Tasmanian electricity supply industry. In that role he was responsible for technical and economic regulation of the sector, including performance standards and prices for distribution services and retail tariffs. Other responsibilities included regulation of the Tasmanian natural gas industry, investigation of the pricing policies of government utilities and analysis of proposed energy sector reforms.

Andrew's other past government appointments include director energy policy and mineral and petroleum policy in Tasmania.

He has an honours degree in Engineering from the University of Queensland and postgraduate qualifications in Economics from the University of Queensland and Macquarie University.

Members

Ms Cristina Cifuentes



Cristina Cifuentes was appointed as an ACCC Commissioner and the Commonwealth full-time member of the AER in May 2013. Cristina was previously the part-time member of the AER from 27 October 2010.

Cristina has a breadth of experience in both the public and private sectors across public policy, finance and utility regulation and has held positions at the Reserve Bank of Australia and the New South Wales Treasury. She served as the state part-time member of the AER between 2010 and 2013, and was a member of IPART between 1997 and 2006.

Cristina chairs the ACCC's Communications Committee and Infrastructure Committee.

Before becoming an ACCC Commissioner, Cristina held a number of directorships, including with the Hunter Water Corporation and First State Super Trustee Corporation.

Cristina holds a first-class honours degree in Law from the University of Technology, Sydney and a degree in Economics from the University of Sydney.

Mr Jim Cox



Jim Cox was appointed as a state/territory AER Board member for three years from 26 June 2014. He had been an acting state/territory Board member since September 2013.

Jim was previously a full-time member of IPART from 1996 to 2013 and Chief Executive Officer of IPART from 2004 to 2013. Jim has held positions with the Reserve Bank of Australia, the Department of the Prime Minister and Cabinet and the Social Welfare Policy Secretariat of the Department of Social Security. He was a Principal Economist at the Office of Economic Planning Advisory Council between 1986 and 1989. Between 1989 and 1992 he was a consultant to the New South Wales Cabinet Office. Jim was Principal Adviser to the Government Pricing Tribunal of New South Wales from 1992 and was a member of the tribunal from January 1996. He was acting Chairman of the Independent Pricing and Regulatory Tribunal (IPART) during 2004, 2009–10 and 2011.

Jim was a visiting fellow at Monash University during 1985 and assisted the New Zealand Government with social policy changes during the early part of 1991.

Jim has written extensively on economic and social policy issues. This work has been published by, among others, the New Zealand Business Roundtable and the Centre for Independent Studies. He was awarded the Public Service Medal in 2011 for outstanding public service to IPART.

Jim has an honours degree in Economics from the London School of Economics and a Master of Economics and Econometrics from the University of Essex.

Managing the ACCC

Committees

The ACCC has two types of committees: subject matter committees, which help the Commission in its decision-making and other functions; and corporate governance committees.

The ACCC makes statutory decisions through formal meetings of its Commission. The Commission is assisted by subject matter committees such as the Enforcement Committee and the Mergers Review Committee. The AER makes its decisions through its board.

ACCC Commissioners and AER Board members are full-time statutory office holders. The ACCC and AER have a strong corporate governance framework, which was implemented in 2014 so that ACCC Commissioners and AER Board members collectively have a clear view of the connection between their statutory decision making on particular matters and the overall staffing resources and legal expenditure implications of those decisions.

Table 4.3: Subject matter committees of the ACCC—roles and membership

Adjudication Committee	Jill Walker (chair), Sarah Court, Delia Rickard, Michael Schaper, Rod Sims—considers authorisation applications, notifications and certification trade marks and refers recommendations to the full Commission for decision; meets weekly.
Communications Committee	Cristina Cifuentes (chair), Roger Featherston, Delia Rickard, Rod Sims—considers telecommunications industry regulatory issues and refers recommendations to the full Commission for decision; meets fortnightly.
Enforcement Committee	Sarah Court (chair), Roger Featherston, Delia Rickard, Michael Schaper, Rod Sims, Jill Walker—oversees ACCC actions to ensure compliance with and enforcement of the Act and refers recommendations to the full Commission for decision; meets weekly.
Enforcement Committee—Strategic Compliance	Sarah Court (chair), Delia Rickard, Michael Schaper, Rod Sims, Jill Walker—provides the members of the Enforcement Committee with sufficient time and opportunity, outside of the weekly Enforcement Committee meeting, to consider and discuss strategic compliance issues; meets each month.
Mergers Review Committee	Jill Walker (chair), Sarah Court, Roger Featherston, Rod Sims—considers merger reviews and refers certain recommendations to the full Commission for decision; meets weekly.
Infrastructure Committee (formerly the Regulated Access, Pricing and Monitoring Committee)	Cristina Cifuentes (chair), Sarah Court, Jim Cox, Michael Schaper, Rod Sims—oversees access, price monitoring, transport and water regulatory issues; meets fortnightly.

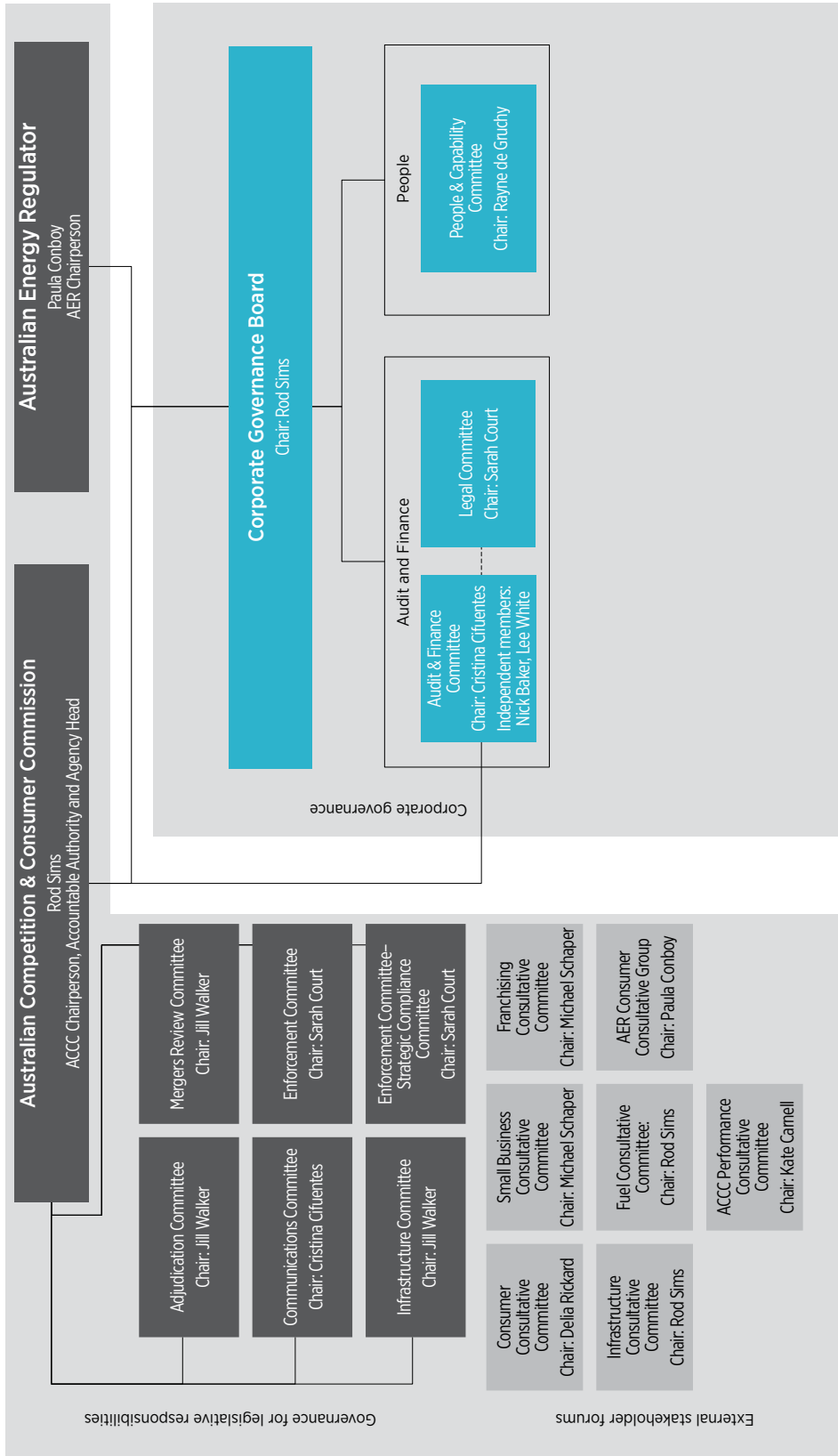
Table 4.4: ACCC/AER functional committees—roles and membership

Corporate Governance Board	Rod Sims (chair), ACCC deputy chairs, Commissioners, AER chair and board members, ACCC Chief Operating Officer and Chief Risk Officer—the primary corporate governance body for the ACCC/AER, sets strategy and corporate planning, oversees internal budgets and resource management, ensures performance monitoring and reporting and accountability; meets monthly or as otherwise determined by the chair.
Audit and Finance Committee	Cristina Cifuentes (chair), Sarah Court, Rod Sims, Michael Schaper, Chief Operating Officer, Chief Risk Officer, independent external member and senior staff—advises the Corporate Governance Board on matters relating to the effectiveness of financial controls, the audit process, financial reporting, the risk management framework and systems of internal controls as they relate to the ACCC/AER; meets quarterly. Membership of the committee was amended in 2014–15 to reflect requirements in the Public Governance, Performance and Accountability Act 2013; the committee now consists of the chair and two independent external members.
Legal Committee	Sarah Court (chair), Chief Operating Officer, senior staff—oversees the development, monitoring and review of systems and processes to manage and forecast the pipeline of investigations and cases and their resulting legal expenditure, and advises the Corporate Governance Board on legal expenditure and resourcing; meets monthly.
People and Capability Committee	Chief Operating Officer (chair), Sarah Court, Delia Rickard, Michael Schaper, Rod Sims, Chief Risk Officer, senior staff—has strategic oversight of the ACCC/AER’s organisational health relating to its people and capabilities, focusing on workforce planning, employment development and talent and capability frameworks to enhance agency performance; meets monthly.
Health and Safety Committee	Representatives of the employer and staff representing the workplace; meets quarterly.
Workplace Relations Committee	Representatives of the employer, employees and employee organisations; meets quarterly.

Strengthening corporate governance

The new corporate governance framework implemented in 2013–14 has matured into an effective measure for providing oversight of the financial performance of the organisation. This framework ensures that the ACCC and AER operate within budget and report regularly on budget performance, key decisions and activities.

Figure 4.1: ACCC and AER governance structure



Corporate Governance Board

The Corporate Governance Board sits at the apex of the governance structure. ACCC Commissioners and AER Board members are part of the Corporate Governance Board. The Audit and Finance Committee, Legal Committee and People and Capability Committee support its work. The board, assisted by these committees, is well equipped to oversee our strong corporate and financial performance.

The purpose of the board is to oversee our corporate and financial performance. Responsibilities include:

- strategy setting and corporate planning
- internal budgets and resource management
- performance monitoring and reporting
- capability development
- agency accountability.

Audit and Finance Committee

The Audit and Finance Committee acts as an independent source of assurance and advice to the Accountable Authority through the Corporate Governance Board on the financial and risk management of the ACCC and AER. Its responsibilities are to review, report to and provide advice to the Accountable Authority, through the Board, on:

- accounting policies, procedures and external financial disclosure
- internal financial controls and reporting
- internal budget process; aligning budget allocations with the external budget
- internal and external audit functions
- compliance with applicable laws, regulations and guidelines
- effective identification and management of risk, including an appropriate fraud and corruption prevention and detection control plan
- the adequacy of the agency's governance arrangements.

The Audit and Finance Committee Terms of Reference were reviewed during 2014-15 to reflect changes in the governance arrangements of the agency and requirements under the *Public Governance, Performance and Accountability Act 2013*. The ACCC Chairperson and the Corporate Governance Board also review the committee's effectiveness annually.

The following internal audit reviews were conducted during 2014-15:

- credit card usage audit
- public governance, performance and accountability (PGPA) compliance audit
- product safety recalls process review
- triage arrangements review.

Other assurance activities conducted in 2014-15 reviewed:

- compliance requirements
- internal controls
- financial statements
- fraud control.

Legal Committee

The Legal Committee oversees the ACCC's and AER's processes and systems to:

- manage and forecast the pipeline of investigations and cases and the resulting legal and related expenditure
- monitor the use and procurement of external legal services
- assist and advise the Corporate Governance Board accordingly.

The committee reviews legal and enforcement resource implications and provides greater accountability around the tracking and forecasting of legal expenditure over the life of ACCC and AER investigations and court proceedings. This committee also reviews the agency's compliance with external obligations such as the Legal Services Directions 2005.

People and Capability Committee

The People and Capability Committee focuses on our longer term strategic workforce plan. It oversees the development of our organisational strategies in areas such as effective leadership, corporate governance processes and effective agency culture.

Corporate and business plans

The ACCC and AER corporate plan for 2014-15 focused on the goals and strategies that help us achieve our purpose. The ACCC's purpose is 'making markets work for consumers now and into the future'. The AER's purpose is 'promoting efficient investments in, and efficient operation and use of, energy services for the long-term interests of energy consumers'.

The ACCC's and AER's role is to protect, strengthen and supplement the way competition works in Australian markets and industries to improve the efficiency of the economy and increase the welfare of Australians. This means that the ACCC and AER will act to improve consumer welfare, protect competition, stop conduct that is anti-competitive or harmful to consumers and promote the proper functioning of Australian markets.

The ACCC has developed strategies to achieve its four goals:

- maintain and promote competition and remedy market failure
- protect the interests and safety of consumers and support fair trading in markets affecting consumers and small business
- promote the economically efficient operation of, use of and investment in monopoly infrastructure in the long-term interest of end users.

The AER has developed strategies suited to energy markets to achieve its goals:

- deliver better network regulation
- build consumer confidence in energy markets
- support the efficient operation of energy markets.

The ACCC and AER share a joint goal:

- increase our organisational effectiveness through a commitment to our people, planning, systems and stakeholder engagement.

The full corporate plan is available on the [ACCC website](#). This annual report describes the outcomes against both the portfolio budget statements and the *ACCC and AER corporate plan 2014-15*.

In 2014-15 we have also redeveloped our corporate plan 2015-16 to meet the requirements of the *Public Governance, Performance and Accountability Act 2013* and our obligations under the Regulator Performance Framework. The *ACCC and AER Corporate Plan 2015-16* is available on the ACCC website.

Risk management

Risk management is a key element of our strategic planning, decision making and business operations.

In accordance with the Commonwealth Risk Management Policy and the Australian National Audit Office (ANAO) and Comcover better practice guides, the ACCC has a risk management framework to support the effective management of organisational risk. At the very top of this framework, the agency's strategic risks, as well as agency-wide and operational risks that sit across and within the agency's business units, are identified.

The framework includes risk management policies and guidelines that communicate accountabilities, responsibilities and expectations of all employees in ensuring the management of risk across the organisation.

The ACCC/AER aims for best practice in controlling all risks by identifying priority exposures, addressing them through improvement strategies and contingency planning, and monitoring and reviewing ongoing risk. As a result, we are able to make well-informed decisions on risk controls.

Business continuity

Business continuity management strengthens business resilience, lessening the likelihood of incidents that may adversely affect ACCC/AER operations and minimising the impact if such incidents occur.

During 2014-15, the ACCC/AER conducted its annual business continuity testing, which incorporated a focus on the Australian Government's heightened security alert. The test concluded that we could continue to operate effectively during a critical incident or emergency situation.

Fraud control

The ACCC has/AER developed a Fraud Control Plan for 2014-2016. The plan provides for fraud prevention, detection, investigation, reporting and data collection procedures that meet our specific needs and comply with the Commonwealth Fraud Control Guidelines. The ACCC/AER Audit and Finance Committees reviews the plan biannually.

Ethical standards

Conflicts of interest

The ACCC and AER are proud of their ethical standards and ensure there is continued public confidence in their integrity and that of their staff. Given that we often investigate misrepresentation of information or unconscionable business conduct and determine charges that impact on cost of living, it is vital that we maintain the trust of the Australian people, government and businesses.

To maintain confidence in our integrity, the ACCC and AER have strict procedures to identify and properly manage any personal interests that may cause an actual or perceived conflict of interest.

As statutory office holders, Commissioners and board members are held to high standards of conduct. These standards derive from a number of regulations and codes of conduct and from the common law.

All members and employees must declare any actual or apparent conflicts of interest annually. These are noted by their general manager and centrally recorded to ensure that staff are not involved in matters where there are potential conflicts.

ACCC members must provide the Chairperson with an annual statement of personal interests and cannot participate in matters in which they, or a member of their direct family, may have a real or perceived conflict of interest. AER members are required to disclose conflicts of interest at a board meeting, and they also provide ongoing disclosure.

As a general rule, ACCC Commissioners, AER Board members and staff cannot accept gifts and hospitality, because acceptance could compromise, or be seen to compromise, the organisation's integrity. In limited circumstances, employees are able to accept gifts such as chocolates or wine if they are related to their participation at a conference or received from a foreign delegation. To ensure transparency, a \$50 minimum threshold is in place for formal declarations. This allows us to display a high level of integrity and ethical behaviour in our day-to-day work.

Values and code of conduct

The ACCC and AER are committed to driving a respectful culture throughout the organisation and upholding and promoting the behaviours specified in the Australian Public Service (APS) Values and Code of Conduct.

Employees learn about the APS Values and Code of Conduct in corporate induction sessions and additional awareness training is incorporated into leadership programs.

Alleged misconduct by employees may be dealt with under the APS Code of Conduct. In 2014–15, the ACCC/AER did not investigate any potential breaches of the code.

External scrutiny

As an Australian Government agency, the ACCC and the AER are held to account for their activities by a variety of external bodies, including:

- courts
- tribunals
- parliament
- agencies with administrative oversight, including the Commonwealth Ombudsman.

These bodies have the power to review our decisions or work, investigate them and either uphold the decision of the ACCC or AER or order or recommend that the ACCC or AER make changes if necessary. Each year the ACCC reports on its interaction with these bodies to ensure transparency on external scrutiny.

Judicial decisions

Pro Teeth Whitening

In our 2013–14 annual report we noted that Pro Teeth Whitening (Aust) (PTW) had proceedings in the Queensland Supreme Court against various Commonwealth parties, seeking damages and relief. The Queensland Supreme Court has handed down judgment in this action, dismissing PTW's application that a limitation period be extended and PTW's claims for damages and defamation. The proceeding arose from a decision of the Parliamentary Secretary to the Treasurer to issue a mandatory recall notice in respect of certain PTW teeth-whitening products.

Administrative Appeals Tribunal

There were two applications to the Administrative Appeals Tribunal for review of ACCC/AER decisions in 2014–15.

Office of the Merit Protection Commissioner

There was one application for review were made to the Office of the Merit Protection Commissioner in 2014–15.

The Fair Work Ombudsman

No matters were referred to the Fair Work Ombudsman for review in 2014–15.

Office of the Australian Information Commissioner

No requests for freedom of information review concerning the ACCC/AER were lodged with the Office of the Australian Information Commissioner (OAIC) in 2014–15. The OAIC decided one matter in respect of the ACCC in 2014–15, upholding all documents as exempt in full despite varying the ACCC's decision. One matter remains before the OAIC following its decision in 2013–14. In that matter, the OAIC required the ACCC to provide edited copies of documents to the OAIC for examination before they were released to the freedom of information applicant. The ACCC is awaiting approval from the OAIC to release those documents.

The Privacy Commissioner did not investigate any complaints about the ACCC/AER in 2014–15.

Australian Competition Tribunal

There were no significant decisions of the Australian Competition Tribunal in respect of the ACCC or AER in 2014–15.

Parliamentary scrutiny

The ACCC's 2013–14 annual report was tabled in the Senate in October 2014.

Details of our input to parliamentary and other inquiries appear on page 89.

The ACCC and AER appeared before the Senate Economics Legislation Committee (Senate Estimates) in October 2014, February 2015 and June 2015.

Commonwealth Ombudsman

In 2014–15, the Commonwealth Ombudsman did not report the ACCC to parliament or find any administrative deficiencies.

Australian Human Rights Commission

One matter was terminated in 2014–15 after action by the ACCC to resolve the complaint.

Performance audits

External performance audits are conducted by the Auditor General supported by the ANAO. The ACCC also conducts internal performance audits. During 2014–15 the following performance audit was conducted:

- ANAO Performance Audit of ACCC's Promotion of Compliance with Fair Trading Obligations (in progress as at July 2015).

Freedom of information

Agencies operating under the *Freedom of Information Act 1982* must publish information for the public as part of the Information Publication Scheme. This requirement has replaced the former requirement to publish a statement in the annual report. Each agency's website must include a plan that shows the information it publishes in accordance with the scheme's requirements. See the ACCC's [freedom of information](#) website for our plan.

Service charter

The ACCC and AER each have service charters stating the standard of service you can expect to receive from us.

Our service charters also set out:

- what you should do if you wish to complain about a business or market issue
- what you should do if you wish to complain about your dealings with us
- what we ask of you.

The service charters are available from the ACCC and AER websites respectively. Hard copies of the ACCC service charter are available from each ACCC office.

The ACCC received six complaints about service standards from eight complainants, to which the Deputy Chief Executive Officer, now the Chief Operating Officer, and a Deputy Chairperson responded. One of the complaints was received late in 2013-14 and has yet to be finalised.

Building organisational capability

2014-15 Corporate Plan Strategy 4.1

Build organisational capability and knowledge sharing through well trained and supported people

Workforce planning

During 2014, the ACCC/AER underwent a reduction in the size of its workforce. In order to maintain the quality of our output with a reduced workforce, an Operational Workforce Plan (OWP) was developed to maximise efficiencies. The OWP includes a series of initiatives that assist us to deliver strong outcomes under our corporate and business plans. During 2014-15 we continued to implement the OWP and realised a number of efficiencies as a result.

The OWP also identified the need for the agency to develop a Strategic Workforce Plan to address our longer term business needs and the capability and resources we need to meet them. It also provides an instrument to analyse our workforce projections and skill gaps, sets out our strategies to develop our people and fill critical skill shortages and details our action plan to deliver the strategies. This will enable our workforce of talented professional people to see the ACCC/AER as an exciting place to work and to grow their careers.

The Strategic Workforce Plan includes a strategic analysis of the ACCC/AER environment and workforce. It identifies key stakeholders, workforce planning assumptions, environmental data and anticipated changes to the workplace. It also identifies pivotal roles within the agency, the capabilities required to perform those roles and critical capability gaps.

Based on the strategic analysis, key workforce risks that could affect the agency's ability to achieve its strategic outcomes and meet government expectations were identified. Potential

strategies, initiatives and projects to assist in mitigating these risks were then developed and form the approach to the ACCC/AER Strategic Workforce Plan 2015–2018.

Key initiatives include:

- effectively implementing the new enterprise agreement and focusing on opportunities within the new agreement to attract and retain talented employees
- developing and implementing an ACCC/AER three-year recruitment strategy
- developing and implementing an organisational succession planning framework to improve talent management
- developing and implementing an approach to better manage organisational change within the agency.

It is intended that this plan will remain 'alive' and its progress be reported on at key committee and board meetings. It will be reviewed biannually and adjusted to meet any new and emerging trends and agency requirements.

Supporting our people

During the challenging environment presented in 2014–15, the agency continued to focus on supporting its people.

In particular, it focused on:

- building organisational capability and knowledge through well-trained and supported people
- promoting a safe, healthy and respectful work environment for our people
- transforming our corporate support services and systems to increase the effectiveness of our operations.

Developing the skills and abilities of our workforce

In 2014–15 there was a continued focus on leadership and skills development to support our changing workforce and prepare staff to address the long-term challenges facing the organisation. Major achievements were:

- the development of the Executive Level 2 (EL2) Professional Development Program
- an increased internal mentoring program
- company director training for 30 senior staff
- a new writing skills program tailored to business area needs.

Business areas focused their development around technical skills, with highlights being:

- a mental health program for lawyers
- a negotiation and stakeholder engagement program for staff in regulatory roles.

EL2 Professional Development Program

The EL2 Professional Development Program was created in consultation with the EL2 cohort to provide development in specialist skill areas.

A total of 10 modules were created around the themes of strategy, leadership, communicating with influence, and business management and personal skills. Each program was designed around a four-hour face-to-face workshop where staff came together to explore a range of tools and techniques on a particular topic. The programs were designed to incorporate both pre- and post-workshop activities in order to assist in the translation of the skills from the classroom to the workplace.

In addition, the modules use peer-partner groups to help staff as they experiment with new ideas. They also help to break down silos and encourage a greater sense of comradery within the cohort.

Mentoring

Once again the internal mentoring program featured heavily in the learning and development program. A total of 35 pairs of staff were involved in mentoring relationships for the year. Staff from APS4 level to Commissioners/Board Members all benefited from the exchange of experience that mentoring provides.

In addition, we participated in the Women in Law Enforcement Strategy mentoring program. A total of six staff at Executive Level 1 (EL1) level and above undertook roles within this program, sharing their experiences with staff across other law enforcement agencies.

Company directors program

We partnered with the Australian Institute of Company Directors to run their company directors training program for 30 senior staff. This program provides staff with excellent insights into how companies are run and the role of a company director. At the conclusion of the program participants are required to complete assessment tasks that satisfy the requirements for them to achieve a nationally recognised postnominal

Writing skills training

To complement the introduction of the new writing style guide, a new internal writing skills program was developed. This program was tailored to business area needs and implemented across divisions. It recognised the specific needs of work areas while still maintaining the central elements of the ACCC brand.

The result has been an increase in skill level among staff, who are now able to develop material that is better suited to their audience and requires less reworking.

Learning and development summary

Training and development costs in 2014–15 were \$2 653 063 (a decrease of \$453 159 on last year) or 2.7 per cent of the annual employee benefit cost.

Approximately 40 per cent of the budget was held centrally to address organisation-wide development programs. The remaining 60 per cent was devolved to divisions to address specific needs relating to technical skills.

A key element of our learning program is support for our Studies Assistance Scheme. The scheme particularly encourages assistance for employees undertaking postgraduate studies. Most assistance is provided for economics, law and business study areas. Study assistance for employees can include study leave and full or partial reimbursement of tuition fees for approved courses.

During the year, 65 employees were supported to study. The ACCC reimbursed \$104 393 in fees and granted leave with pay for employees to attend lectures and tutorials totalling the equivalent of 245 363 in paid time.

Table 4.5: Attendance at courses, seminars and learning activities—2012–13, 2013–14 and 2014–15

Type	Number of attendees		
	2012-13	2013-14	2014-15
Operating skills and knowledge	1903	1502	918
Legal skills and knowledge	944	900	675
Applying the Act	113	99	60
Economics and regulatory	360	282	243
Leadership, supervision and management	1110	631	589

Our staffing profile

During 2014–15 we worked proactively to ensure that our workforce capacity was consistent with our budgeted staffing level. This was achieved through an organisation-wide restructure and weekly senior manager meetings that consider vacancy requirements and ensure that resources are allocated within our budgeted staffing level to meet our operational needs.

Given the limitations of the government’s interim recruitment arrangements, we offset ongoing attrition and the need for new competencies by transferring existing APS employees from other APS agencies and engaging people on a non-ongoing basis. As a result, the composition of our staffing profile has changed since the beginning of the financial year, with an 8 per cent increase in the number of non-ongoing staff.

The ACCC and AER had an actual paid average staffing level of 715 (ASL) at the end of 2014–15, which was consistent with our budgeted staffing level of 735.

Figure 4.2: Age profile of ACCC staff at 30 June 2015

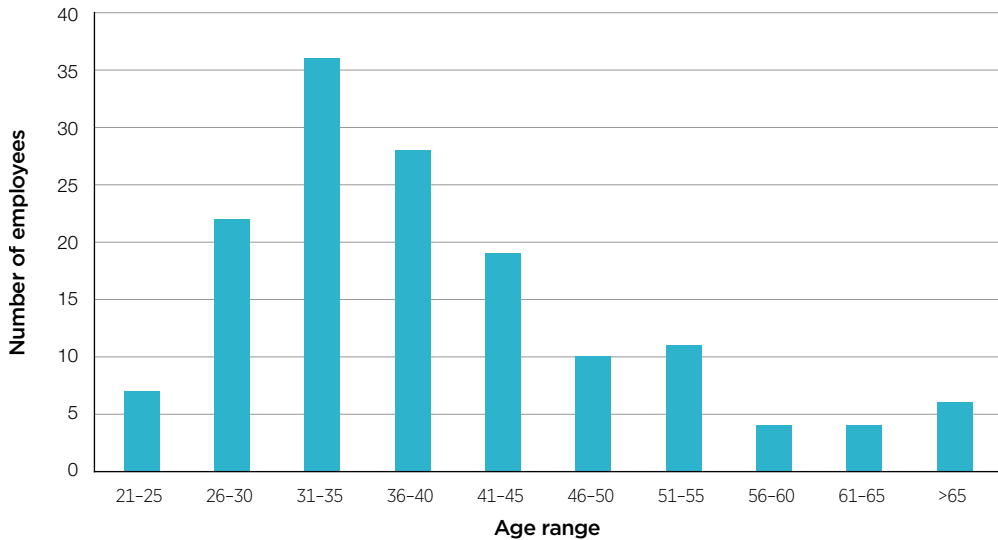
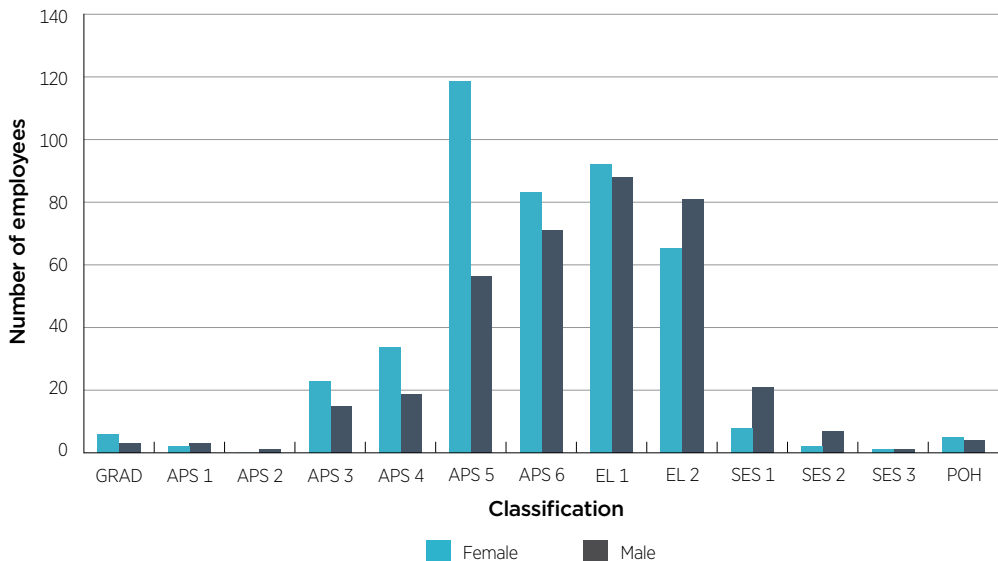


Figure 4.3: Gender profile of ACCC staff at 30 June 2015



Recruiting and retaining talented employees

The government's commitment to reducing the size of the APS led the agency to implement a series of lateral recruitment and retention strategies during 2014–15. These strategies saw the agency target the competencies required from existing APS employees in the first instance. This included:

- consulting the APS redeployment register and/or the agency internal transfer register for suitably capable people
- advertising employment opportunities within our agency for existing employees to temporarily transfer to or act in various roles

- advertising employment opportunities within the APS so that existing ongoing APS employees can apply for vacancies
- transferring existing ongoing APS employees from other APS agencies to the agency on a temporary or permanent basis.

Where internal strategies did not, or were not expected to, yield the required competencies, we sought the competencies from outside the APS and engaged these people on a temporary basis. Our General Employment, Public Information Officer and Enforcement registers were valuable tools that allowed people outside the ACCC/AER express their interest in working with us. The registers proved successful in matching suitable candidates with our vacancies.

We also continued to leverage on our established reciprocal secondment program with the Treasury, providing opportunities for some of our high-performing staff take six-month placements with the Treasury. The success of this program led us to establish a similar secondment program with the Department of Communications. Agency staff also had numerous opportunities to undertake secondments with many of our internal counterparts, including the Singaporean, Malaysian, Vietnamese, Indonesian and New Zealand competition commissions. These secondment opportunities complemented our invigorated learning and development opportunities and were a valuable channel that our people could use to build on their experience, gain exposure to another working environment and allow the ACCC/AER to share expertise with our nearest neighbours.

The ACCC/AER implemented an engagement survey for all staff after they have been with us for six months and exit surveys for people who are leaving the agency. It is anticipated that the information captured through these channels will contribute to future engagement and retention strategies.

Table 4.6: Staff turnover according to separation type, 2014-15

Separation	Classification	Number of staff
External transfer or promotion	Non-SES	11
	SES	1
Redundancy	Non-SES	5
	SES	1
Contract expired	Non-SES	12
Resignations	Non-SES	40
Retirement	SES	1
Total		71

Taking on graduates and developing them into highly skilled employees

The ACCC and AER rely upon a professional workforce. Many of our people possess the specialist/technical competencies that are required to complete work that has far-reaching economic, competition and consumer welfare implications.

A critical method that the ACCC/AER uses to secure these competencies is our annual Graduate Program to engage talented graduates and develop them with a combination of on-the-job-training, mentoring and a formal training program. The ACCC/AER Graduate Program, combined with opportunities for career progression, has proven to be an important pipeline, contributing many valued employees to our high-performing culture.

In coming years we expect that our suite of integrated entry-level programs will yield further benefits, with formal ACCC/AER internship and work experience programs supplementing the supply of entry-level talent into our organisation. These programs will also be integrated with initiatives from our diversity strategy and will operate to broaden diversity among our people.

Improving the work environment

2014-15 Corporate Plan Strategy 4.2

Promote a safe, healthy and respectful work environment for our people

The ACCC/AER is committed to building on our reputation among the public and private sectors as a preferred employer by:

- understanding our staffing profile and making best use of our people's talents
- engaging our people to shape workplace culture through consultation and collaboration
- embedding a risk-management approach among our people to provide a safe and rewarding work environment for all
- ensuring our workforce recognises the diversity within Australian society
- offering flexible working conditions.

These strategies and initiatives reflect our progressive approach to people management. They rely on our people's respect for each other and a commitment to working together to achieve outcomes that are mutually beneficial to both individuals and the ACCC/AER.

Looking after our people

One key initiative employed again this year was Health and Wellbeing Week, which supports our staff to maintain a healthy lifestyle. In this year's Health and Wellbeing Week, held in October 2014, the ACCC/AER encouraged mental and physical wellbeing for all staff. The program for the week included a healthy living panel discussing healthy lifestyle transformations and resilience, fitness goals and balancing a healthy lifestyle in an increasingly time-poor environment. We created an ACCC & AER Healthy Recipe Booklet, which contained contributions from across the organisation, and we held a seminar on dealing with change.

Our R U OK? Day is a chance to check in on the mental health and resilience of colleagues. It was strongly promoted throughout the ACCC/AER and staff were reminded of the Employee Assistance Program—a free counselling service for employees and their immediate families.

Initiatives directed at improving the health and wellbeing of staff not only provide benefits to individuals but also provide tangible benefits to the organisation. One indicator of this effect is the rate of unscheduled absences. The median rate of unscheduled absences in 2014-15 (average days per employee per year) across all medium-sized APS agencies was 12.3. The equivalent figure for the ACCC was 8.7.

Encouraging employees to give back to the community

We are a part of the community in which we live, so we encourage giving back to the community as a part of our culture. Staff donated approximately \$15 000 in 2014-15 through the workplace giving program. The largest recipients of those donations were Médecins Sans Frontières Australia, Amnesty International Australia, the Australian Red Cross Society and the RSPCA Canberra.

When the Nepal disaster occurred, the employee payroll system was set up so that staff could self-manage direct donations to a range of organisations. An internal news article about the disaster, published on 11 May 2015, informed staff of the facility and encouraged them to use it.

Staff made 60 donations of blood to the Red Cross in the group name of the agency and an ACCC/AER team participated in fundraising activities for men's health.

Shaping workplace culture through consultation

Our employees have indicated through previous staff surveys that they are particularly engaged with their work, the agency and their peers. To maintain this enthusiasm, we continue to foster a workplace where respect is a cornerstone of our interactions. This is reflected not just in our interactions with each other but also in our interactions with clients and stakeholders.

Our culture promotes an environment of open, honest and respectful feedback. Based on previous requests from our people to improve internal communications and change management, the ACCC Chairperson now undertakes regular information sessions with staff. These sessions are held in most ACCC/AER offices or using videoconference for regional offices. They provide an opportunity for two-way communication directly between the Chairperson and our people. This has proven to be a valuable communication channel. Concerns that have been raised through the sessions have led to changes across the agency, including increasing the number of possible locations from where a role can be performed. This change increases our opportunity to identify the best possible candidate for a position and also increases the opportunities for career progression within our smaller and regional offices.

We use a similar ethos in our collaboration with staff in all other forums, including our enterprise agreement negotiations and discussion of policy changes through our Workplace Relations Committee.

Our agency has a culture of being 'frank and fearless', actively encouraging employees to give feedback through various employee surveys or directly to their managers. Senior managers use this information to identify and remedy issues and strengthen our culture. For example, past surveys showed staff concerns about work-life balance, which we have addressed through a range of strategies. Data from the 2014 APS Employee Census showed a 74 per cent positive rating on work-life balance for the ACCC/AER, which is 9 per cent higher than the APS average. The census also showed that the ACCC and AER rate well on:

- job engagement (77 per cent positive—6 per cent higher than the APS average of 71 per cent)
- clear understanding of role (89 per cent—10 per cent higher than the APS average)
- high-quality leadership (66 per cent—17 per cent higher than the APS average).

While these are positive results, staff have indicated they would like to see better performance management, improved internal communication, better change management and more opportunities for career progression. Staff requests concerning opportunities for career progression probably result from a reduction of the workforce and hence fewer opportunities. Strategies are underway in all areas, overseen by our various governance committees and management.

Consultative committees

The Workplace Relations Committee (see page 211), consults on employment conditions and other matters affecting the implementation of our enterprise agreement, including:

- productivity savings contemplated by, and costs arising from, the agreement
- workplace issues arising from the agreement

- work value standards
- the development and review of agency employment-related policies
- procedures and guidelines.

The Health and Safety Committee (see page 211) is a joint management and staff committee established in accordance with the *Workplace Health and Safety Act 2011* to facilitate:

- consultation and cooperation between the agency and employees on work health and safety matters
- continuous improvement in managing these matters by the agency .

Appendix 3 details workplace health and safety programs and outcomes for the year.

Making the most of our diversity

We recognise the role that diversity plays within the organisation and in the broader Australian community. Through our diversity program, we are committed to continuing to share information on:

- the significance of reconciliation with Indigenous Australians
- how numerous cultures make up Australia
- strategies to improve our accessibility to employees with a disability
- how all employees should be embraced for who they are, regardless of their sexual orientation.
- The ACCC/AER Diversity Reference Group (DRG) looks after all aspects of diversity in the agency, including multicultural; multicultural disability; Aboriginal and Torres Strait Islander and lesbian, gay, bisexual, transgender and intersex (LGBTI) issues. It has members who are designated as champions for each of these areas.

In 2014–15 the DRG oversaw the development of the *ACCC/AER Disability Action Plan 2015–2018* and the *ACCC/AER Reconciliation Action Plan 2015–2017*.

As part of our commitment to reconciliation, in 2014–15 we sponsored two employees to participate in the Jawun secondment program to Indigenous communities in North East Arnhem Land. Jawun is a not-for-profit organisation that manages secondments from corporate and government partners to Jawun Indigenous partner organisations. This is a six-week placement with the aim of fostering relationships and building capabilities of both secondees and those in the host communities.

Disability reporting

In 2014–15 we launched our Disability Action Plan (DAP) for 2015–2018. The goal of the DAP is to attract, support and retain the best staff possible and, if those staff members have a disability, provide the support they need to feel as much a part of our organisation as any other staff member while contributing and developing to their full potential.

The DAP aims to ensure equitable access to development opportunities, premises and information for staff with disabilities. In order to attract and retain a diverse workforce, the DAP incorporates the use of disability employment networks when recruiting new staff and ensures that information provided to selection panels encourages support and reasonable adjustment for applicants who self-identify as having a disability.

Table 4.7: Workplace diversity profile at 30 June 2015

	Total number	Female	ATSI	CLBD	PWD
SES and ACCC/AER members	49	16		2	1
APS1	5	2		1	
APS2	1			0	
APS3	38	23	3	4	1
APS4	53	34	2	13	
APS5	177	120	3	41	8
APS6	156	84	1	38	2
EL1	182	93	1	16	3
EL2	148	66		16	1
GRADUATE	9	6		3	1
Totals	818	444	10	134	17
Proportion of the total (%)		54.28	1.22	16.38	2.08

ATSI = people from Aboriginal or Torres Strait Islander backgrounds; CLDB = self-identified people from culturally or linguistically diverse backgrounds; PWD = people with disabilities. A staff member could be classified under one, two or all three of these headings.

Flexible working conditions

During 2014–15, the ACCC had a strong focus on flexible working arrangements. We conducted a survey to gauge the usage and perceptions of flexible arrangements, including part-time work, work from home and types of varied work hours. The survey indicated that many staff were accessing these arrangements very successfully but that some additional support would be beneficial, particularly around part-time work.

Following this, International Women's Day events across the agency in March 2015 included discussions on this topic. The discussions were combined with the topic of gender disparity at senior management levels. International Women's Day was used as a forum to discuss the flexibility topic given that the survey indicated that staff who work part time felt that it impacted on their career progression and the majority of staff who work part time were female. This setting gave the opportunity to discuss the flexibility issues that apply to all staff and then to explore a potential link between this situation and a gender disparity at senior levels.

This process produced a large amount of valuable feedback that will inform a body of work to further enhance the agency's commitment to flexible working arrangements, including the development of more detailed guidance on flexible working arrangements for both managers and team members.

Enterprise agreement

The ACCC Enterprise Agreement 2011–2014 sets out the terms and conditions for all APS employees from APS1 to EL2. The current agreement, which nominally expired on 30 June 2014, continues until a new agreement is finalised. Negotiations for a new agreement have been underway throughout the year.

Work-life balance

During 2014–15, work-life balance was promoted by monitoring and managing excess working hours and promoting flexible working arrangements.

Employment agreements

Senior executive remuneration

Remuneration for ACCC and AER members is determined by the Remuneration Tribunal in accordance with:

- the *Remuneration Tribunal Act 1973*
- Determination 2013/10, Remuneration and Allowances for Holders of Full-Time Public Office.

Tables 4.8 and 4.9 set out the nature and amount of remuneration for ACCC and AER members.

Table 4.8: Remuneration of members of the ACCC at 30 June 2015

Full-time	Position	Base salary	Total remuneration of office
1	Chair	\$501 760	\$716 800
2	Deputy Chair	\$376 320	\$537 600
4	Member	\$322 560	\$460 800

Table 4.9: Remuneration of members of the AER at 30 June 2015

Full-time	Position	Base salary	Total remuneration of office
1	Chair	\$358 400	\$512 000
1	Member	\$280 320	\$384 000

Determinations

SES employees are subject to individual determinations covering remuneration, leave and a range of other employment conditions. Determinations are made in accordance with the *Public Service Act 1999*.

Common law contracts and Australian Workplace Agreements

No employees are covered by common law contracts or Australian Workplace Agreements.

**Table 4.10: Number of employees covered by each industrial instrument
(at 30 June 2015)**

	ACCC Enterprise Agreement 2011-24	Section 24 determinations
APS1	5	0
APS2	1	0
APS3	38	0
APS4	53	0
APS5	177	0
APS6	156	0
EL1	182	0
EL2	147	1
SES B1	0	29
SES B2	0	9
SES B3	0	2
GRAD	9	0

Table 4.11: Salary ranges for APS employees (at 30 June 2015)

	ACCC Enterprise Agreement 2011-14	Section 24
APS1	\$44 830-\$49 550	-
APS2	\$50 733-\$56 257	-
APS3	\$57 783-\$62 370	-
APS4	\$64 408-\$69 930	-
APS5	\$71 837-\$76 172	-
APS6	\$79 517-\$89 125	-
EL1	\$98 797-\$109 339	-
EL2	\$114 539-\$134 229	\$154 509
SES 1	-	\$175 075-\$201 959
SES 2	-	\$233 539-\$292 465
SES 3	-	\$297 224-\$314 097
L1	\$62 370-\$122 901	-
L2	\$129 880-\$137 664	-
GRAD	\$56 257-\$64 408	-

Table 4.12: Performance pay

	SES B1	SES B2	SES B3*	ACCC*
Number of staff who received bonus	29	10	2	41
Total bonus	\$358 103	\$208 300	-	\$566 402
Average bonus	\$12 348	\$20 830	-	\$14 523
Range	\$1021-\$16 157	\$17 515-\$26 322	-	\$1021-\$26 322

* As at 30 June 2015 the ACCC had only two Senior Executive Service Band 3 employees; therefore, these details have been omitted to protect privacy.

Streamlining our project management

2014-15 Corporate Plan Strategy 4.3

Streamlining our management of projects by using the skills and experience of our people

We have invested in the adoption of a best practice framework for project management. The agency's project management office provides training to project managers and project team members on applying PRINCE2—a common project management methodology.

As well as ensuring that projects are managed in the right way, the agency has a focus on ensuring that the right projects are initiated. Prioritisation processes exist to encourage business areas to put forward investment ideas. These ideas are then assessed to arrive at a portfolio of projects that balances the needs of business areas across the agency.

All projects have an increasing focus on managing the resulting organisational change. Encouraging and supporting individuals to embrace, adopt and use a required change helps to ensure that the change is embedded and improves the realisation of project benefits.

Improving specialist services

2014-15 Corporate Plan Strategy 4.4

Transforming our specialist legal and economic services to increase the effectiveness of our operations

Legal and economic services

Specialist legal and economic services are provided by the ACCC's Legal and Economic Division. The Legal Group consists of four core units that provide in-house legal services to specific business areas and General and Special Counsel.

The Legal Group assists the ACCC and AER to make legally informed decisions and manage its litigation, including by facilitating, as an informed purchaser, external litigation services. It also assists in managing the agency's corporate legal obligations.

The Economic Group consists of two core units that provide in-house strategic economic advice and related services to specific business areas. The Economic Group aims to facilitate the consistent use of economic principles in decision making, increase the quality of

economic analysis and contribute to economics-related learning and development initiatives. The Economic Group is committed to strengthening the quality of economic analysis in the organisation and to maximising the influence of economic ideas.

Legal services

The Legal Group consists of four core units:

- Competition and Consumer Law Unit, which provides legal service to the ACCC's Enforcement and Compliance Division
- Mergers and Authorisation Law Unit, which provides legal services to the Mergers and Authorisation Division
- Regulatory Law Unit, which provides legal services to the ACCC and AER on regulatory and energy matters
- Corporate Law Unit, which deals with corporate in-house issues, strategic development initiatives, legal technology services and freedom of information requests.

Special and General Counsel provide additional high-level independent strategic advice on complex major issues across all areas of the ACCC and AER.

The roles of in-house lawyers include providing legal advice and specialist skills in drafting legal documents and helping to prepare and manage litigation. They also manage external lawyers who are engaged where additional resources are needed, or as required under the Legal Services Directions. In-house lawyers are located in most ACCC offices to ensure that specialist legal services are available to staff at all times.

During 2014–15, there were a number of initiatives to improve the effectiveness of the Legal and Economic Division. Activities included:

- reviewing and developing new systems and processes to more effectively track and analyse legal expenditure and monitor forecasts of future expenditure
- implementing internal strategies, including guidance and seminars, to ensure that line areas use internal lawyers and economists more efficiently
- moving resources across the division as necessary to manage peak workloads and priorities
- continuing to focus on ensuring value for money from external legal services providers.

Legal technology services

The legal technology services area within the Legal Group specialises in information management and case support for ACCC and AER investigations and litigation. Its functions include coordinating the conversion of case material into requisite formats, preparing electronic exchange of discoverable material and designing workflows to increase the efficiency and consistency of large document reviews.

Economic advice

The Economic Group within the Legal and Economic Division comprises two units: the Regulatory Economic Unit and the Competition and Consumer Economic Unit.

Economic Group specialists provide expert economic advice to all areas of the ACCC/AER; provide economic advice and research support on strategic projects; and develop and educate staff to improve understanding of the application of economic techniques to competition and regulatory issues. During the reporting period, activities included:

- working with project teams on specific investigations into potential breaches of the Act
- working with project teams on specific regulatory decisions in the telecommunications, energy, transport and water sectors

- managing a seminars program that featured internal and external presenters speaking about regulatory, competition and finance topics
- organising the annual ACCC/AER Regulatory Conference, which more than 400 delegates attended
- publishing working papers and periodicals on regulatory issues.

Effective communication

2014–15 Corporate Plan Strategy 4.6

Implement a comprehensive strategy to ensure effective communication with our diverse audiences that supports our goals.

Measure:

- Effectiveness and use of ACCC/AER websites, other media and campaign materials in raising awareness of the role, purpose and responsibilities of the agency.

Our approach to engagement

The ACCC/AER is applying a strategic approach to tailoring messages and using communication channels to increase our connection with:

- consumers and groups representing various interests, including vulnerable and disadvantaged consumers
- small to medium businesses and the associations that represent them
- journalists who can help to spread compliance and consumer rights messages and publicise successful legal action that will deter illegal conduct
- infrastructure industries and regulated industries
- our state and territory counterparts and other relevant regulators
- legal and business support professionals
- international forums and groups.

Our aim is to inform and educate so that consumers and small businesses feel confident to exercise their rights and businesses have the knowledge and skills to comply with the law. We also give information to large businesses, their suppliers and consumers so they can understand the ACCC's and AER's roles in infrastructure and the measures we take to ensure competition and fair trading.

The channels the ACCC and AER use to engage the target groups include:

- the [ACCC website](#) and associated websites dedicated to product safety, product recalls, scams, the Australian Energy Regulator, energy price comparison and freedom of information
- mainstream and social media
- the ACCC Infocentre telephone lines: a general enquiries and complaints line and specific numbers for:
 - Indigenous consumers
 - small businesses
 - unit pricing
 - carbon claims
 - energy price comparison
- education guides, DVDs, online learning modules, webinars and interactive apps
- information translated into languages other than English

- face-to-face education outreach for small businesses and compliance
- speeches by the Chairperson and Commissioners/Board members
- guides and publications on a wide range of topics.

Communicating our messages

The Strategic Communications Branch develops strategies and works with the operational areas of the ACCC and AER to inform consumers, business, media and government about our role and work. As well as working daily on media issues, the branch liaises with business areas to ensure that our information is accurate and easy to understand, targeted to audience needs and readily accessible.

The Strategic Communications Branch is leading the change to a 'digital first' approach to communication by using the ACCC and AER websites as the default channels.

Online communications

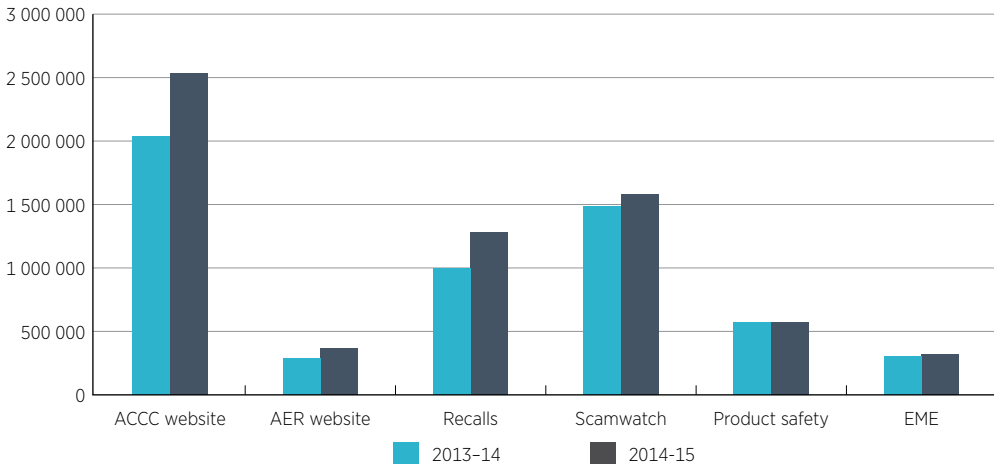
ACCC and AER websites

The ACCC released an update to its website (www.accc.gov.au) in May 2015 which made it fully mobile responsive. In 2014-15, 32 per cent of user visits were from mobile devices. Overall, the site received 2 535 370 visits from users in 2014-15, which was a 25 per cent increase on the previous year's traffic.

The most popular consumer web pages include 'Repair, replace, refund' and 'Make a consumer complaint'. 'Consumers' rights & obligations' and 'Unconscionable conduct' were the most popular business pages. The most popular downloads were *Consumer Guarantees—a guide for consumers* and *Debt collection guideline for collectors and creditors*.

Readspeaker, an accessibility feature allowing users to listen to content, was activated in 38 859 visits. Readspeaker is particularly helpful for people with low literacy and those from non-English-speaking backgrounds or from Indigenous communities.

The AER went live with a major redevelopment of its Energy Made Easy price comparator website on 25 June 2015, to improve accessibility and ease of use for consumers and retailers.

Figure 4.4: Website growth between 2013-14 and 2014-15

Social media

The Strategic Communications Branch works with the operational areas of the ACCC and AER to provide social media governance and guidance. It also manages social media accounts on Facebook, YouTube, Twitter and LinkedIn.

Two of the largest referrers of traffic to the ACCC website are Facebook and Twitter. This demonstrates the effectiveness of our cross-platform communication strategies.

The ACCC has three Facebook pages:

- ACCC Consumer Rights—building awareness of consumer issues and responding to simple enquiries and comments. It had 25 991 'likes', adding 22 362 in 2014-15. We posted to the page 137 times, potentially reaching 6 884 827 users.
- ACCC Product Safety—sharing product safety news, tips and recalls. It had 19 941 'likes', adding 8334 in 2014-15. There were 349 posts to the page, potentially reaching 5 069 279 users.
- ACCC—Your Rights Mob Tiwi Islands—delivering targeted consumer protection messages for Indigenous Australians in the Tiwi Islands. It had 3176 'likes', adding 2879 in 2014-15. There were 236 posts to the page, potentially reaching 353 574 users.

We maintain three Twitter accounts:

- @accgovau—promoting ACCC news, activities and tips and responding to queries. It had 6592 followers, adding 3692 in 2014-15. We tweeted 601 times, potentially reaching 3 556 426 users.
- @ACCCprodsafety—sharing recalls and product safety news and tips. It had 5482 followers, adding 1343 in 2014-15. There were 909 tweets to the account, potentially reaching 6 603 908 users.
- @Scamwatch_gov—alerting social media users to new scams and providing tips on how to avoid being scammed. It had 8772 followers, adding 1898 in 2014-15. There were 1307 tweets to the account, potentially reaching 14 338 639 users.

The ACCC and Product Safety YouTube channels host videos on a range of topics for use on other social media sites and the ACCC website. Videos on the ACCC channel have been viewed 127 046 times. Videos on the Product Safety channel have been viewed 199 768 times.

During 2014-15 we launched an official LinkedIn company page, highlighting the ACCC's activities in the small business sector. The page has attracted 3475 followers.

News releases and speeches

In 2014–15 the ACCC issued 267 news releases and the AER issued 31.

The Chairperson and Commissioners/Board members undertook more than 122 public speaking engagements. Through the speeches program, we engage with many stakeholder groups, from local communities, small business associations and industry and professional groups through to the boards of multinational corporations.

Reports and guides

The ACCC and AER are required to produce a number of reports to parliament and ministers. In addition, we prepare specific, more detailed guides for consumers, businesses and industries on a range of competition and consumer issues. We continue to favour digital production and distribution over hard copy for these reports and guides. In 2014–15:

- we logged 192 798 visits to online publications, down from 199 210 in 2013–14
- our *Little black book of scams* continued to be popular, especially with the elderly and vulnerable audiences. We distributed 118 588 copies of the publication.

ACCC market research

To help improve our communications with consumers, small businesses and stakeholders, we commissioned market research on these audiences' understanding and perceptions of the ACCC and our activities. This research, conducted in the first half of 2015, tracked changes from similar research in 2012.

The research gathered data on:

- consumer, business and stakeholder perceptions of the ACCC
- competition and consumer issues that are important to consumers and businesses
- education and communication tools, information sources, channels and approaches consumers and small businesses use and prefer.

The research showed that overall perceptions of the ACCC among consumers, businesses and key stakeholders has improved over the past three years. There is general support for the ACCC to undertake vigorous enforcement activities to support consumer rights.

Communication preferences for both consumers and small businesses are still mainstream media channels (TV and radio news and newspapers), the ACCC website and the telephone help line. While preferences for social media have increased they are still low in relative terms. We can use this data to adjust the channels we use to communicate with different audiences.

Consumer and business understanding of the ACCC's role is good, although there remain some misconceptions that the ACCC sets fuel prices (36 per cent of consumers, 23 per cent of businesses) and has the power to stop price gouging (78 per cent of consumers, 82 per cent of businesses).

When asked to rate the most important roles for the ACCC, consumers and businesses agree all ACCC roles are important. Most important are our roles in product safety, protecting consumer rights, stopping misleading conduct and making sure there is no price fixing by petrol retailers, and also small business fairness issues. However, even the lowest ranked role—stop more mergers and takeovers—was supported by a majority of consumers.

Consumer perceptions of the ACCC shifted favourably, with 47 per cent saying the ACCC does a good/very good job overall (up from 38 per cent in 2012) and only 9 per cent saying the ACCC does a poor/very poor job (down from 13 per cent). Similarly, business sentiment shifted positively, with 35 per cent good/very good (30 per cent in 2012) and 16 per cent poor/very poor (21 per cent in 2012). For both businesses and consumers the primary reasons for thinking the ACCC does a poor or very poor job derive from perceptions that the ACCC lacks power or is ineffective or from concerns about petrol or supermarket prices.

Stakeholders

The feedback from stakeholders was overwhelmingly positive. They hold the ACCC in very high regard, say we collaborate very well, compare us very favourably to other government agencies, and say that we have dramatically improved our performance in recent years through our quality staff, hard work and perseverance.

Stakeholders consider the ACCC an effective organisation that is fulfilling its role effectively and providing excellent communication with stakeholder organisations.

Small business communication

The ACCC took the opportunity during the focus groups to test sample small business communications. These results will be used to improve our responses to small business.

Transforming corporate support

2014–15 Corporate Plan Strategy 4.7

Transforming our corporate support services and systems

Information communication and technology

Expertly executed change

March 2015 saw the closure of the IT Transformation Program—a multi-year initiative established as a comprehensive, coordinated, and strategic program of work to improve the ACCC/AER's information and communications technology (ICT) services.

Through expert management and effective governance the program achieved its stated objectives, which were to:

- guide investment in and management of ICT to meet current and emerging needs
- redevelop and restructure ICT infrastructure to provide a stable, scalable and secure platform
- standardise and rationalise infrastructure and applications to realise efficiencies
- strengthen ICT capability
- achieve measurable improvement in system performance and service delivery
- comply with the ACCC's whole-of-government responsibilities.

The program was technically complex and on a scale that the ACCC had not previously undertaken. The scope encompassed all aspects of people, processes and technology, so the program required a significant financial investment and strong support from senior management.

The closure of the program is recognition that its objectives were met and that:

- it was successful in delivering a stable, secure and up-to-date technology platform that serves as a solid foundation for future development
- capability has been improved across the ICT workforce
- the ICT infrastructure provides the flexibility that is necessary to respond to emerging demands.

The need to improve information security was a significant driver for the program and this focus will continue beyond the life of the program. In July 2014 the ACCC was the subject of a 'Cryptolocker' incident, which resulted in a purposeful bring-down of all systems while

data was recovered and services restored. This incident occurred after several staff members clicked on links in an email that then proceeded to launch malicious software.

This was a very visible demonstration of the need for improved security. A variety of security improvements that were being tested were quickly implemented to prevent any similar recurrence.

Enhanced business systems

Building on the foundations established by the IT Transformation Program, the ACCC has developed a workflow and case management solution. From 1 July 2015 this solution will be commissioned for our core enforcement and legal processes. The new system improves the tracking of matters through their life cycle and provides at-a-glance reporting of the stock and flow of all matters on hand.

Improved collaboration

The ACCC/AER launched its new intranet in January 2015. The intranet provides a reliable resource for up-to-date business information that is aligned with our internal communication strategy. It incorporates a new user-centred design to better meet the needs of staff. It was developed in a mobile-responsive way so that staff can access content away from the office. The site also complies with accessibility best practice.

Internal collaboration will be further improved in the coming year, with the planned implementation of unified communication across telephony (including videoconferencing), personal communications and mobile devices.

Online presence

In 2014–15, building on the successful refresh of the website (www.accc.gov.au) in 2013–14, we have continued our investment in upgrading a range of our websites. Development has occurred throughout the year, with implementation scheduled to take place in the first quarter of 2015–16. The websites being upgraded are:

- www.energymadeeasy.gov.au
- www.scamwatch.gov.au
- www.aer.gov.au
- www.productsafetyaustralia.gov.au.

All websites have been developed so that they can be used by people with disabilities and accessed on any device type.

Finance and corporate services

The Finance Branch is responsible for all ACCC financial matters and asset management. In addition, our Corporate Operations and Property Management teams maintain our offices and plan and coordinate moves and office fit-outs.

Assets management

Assets managed by the ACCC include:

- buildings, including fit-outs and leasehold improvements
- infrastructure, plant and equipment, including office equipment, furniture and fittings and computer equipment
- intangibles, including computer software.

An independent valuation of ACCC's buildings, infrastructure, plant and equipment was undertaken to confirm the validity and value of its asset portfolio.

Purchasing

The ACCC uses Australian Government resources and spends public money in accordance with the requirements of the *Public Governance, Performance and Accountability Act 2013* (Cth).

Responsibility for procurement lies with the financial delegates in each business unit, who have support from a central procurement team. The team advises on risk management, probity, specification development and contract management. Low-risk procurements (valued at less than \$80 000) are managed by business units. Procurements of \$80 000 or more and whole-of-government and panel arrangements are managed by both the business unit and the central procurement team, ensuring that the ACCC complies with the Commonwealth Procurement Rules.

The Commission supports small business participation in the Australian Government procurement market and supports Small and Medium Enterprise through:

- the Small Business Engagement Principles (outlined in the government's Industry Innovation and Competitiveness Agenda), such as communicating in clear, simple language and presenting information in an accessible format, and
- electronic systems or other processes used to facilitate on-time payment performance, including the use of payment cards.

Tenders

The ACCC advertises all tender opportunities through the [AusTender](#) website. Information on contracts and consultancies awarded by us is also available on the AusTender website.

The ACCC's annual procurement plan was published on AusTender by 1 July 2014.

No contracts were exempted from contract reporting requirements in 2014–15.

Consultancy contracts

During 2014–15, the ACCC/AER entered 62 new consultancy contracts involving actual expenditure of \$2.7 million. In addition, there were 10 ongoing consultancy contracts involving actual expenditure of \$2.5 million.

The ACCC and AER engage consultants where it lacks specialist expertise or when independent research, review or assessment is required. Consultants typically investigate or diagnose a defined issue or problem; carry out reviews or evaluations; or provide independent advice, information or creative solutions to assist ACCC or AER decision making.

Before engaging consultants, we take into account the skills and resources that are required for the task, the skills that are available internally and the cost-effectiveness of engaging external expertise.

The decision to engage a consultant is made in accordance with the Public Governance, Performance and Accountability Act and related regulations, including the Commonwealth Procurement Rules. In 2014–15, we engaged consultants through open public tender and select or limited tender (including through panel arrangements).

Table 4.13: Consultancy trend data

	2012-13	2013-14	2014-15
Number of new consultancies	62	48	62
Expenditure on new consultancies	\$4.4 m	\$2.0 m	2.7 m
Number of ongoing consultancies	17	25	10
Expenditure on ongoing consultancies	\$4.0 m	\$1.2 m	2.5 m

Exempt contracts

The ACCC had no exempt contracts for the financial year.

Environmental performance***Mandatory environmental reporting***

The agency adheres to the Energy Efficiency in Government Operations Policy, reporting annual levels of energy use and emissions to the Department of the Environment.

To meet the requirements of the National Packaging Covenant, the agency also reports on the volume of packaging and paper waste it produces.

Environmental performance

The ACCC remains committed to the development of best practice in environmental sustainability and performance. Our environmental policy includes strategies to improve sustainability that are consistent with the Australian Government ICT Sustainability Plan 2010-2015 and better practices outlined by the Australian National Audit Office.

We made significant progress in environmental policy performance reporting in 2014-15. We achieved the highest number of key performance indicators (KPIs) to date (11 of 17 KPIs, or 65 per cent) and improved data collection and recording. Our overall performance has improved by more than 48 per cent since the inception of the reporting program in 2011-12, when only three of 17 KPIs were met.

Grant programs

Neither the ACCC nor the AER administers any grant programs.

Financial performance

The ACCC's financial statements, both administered and departmental, are in part 5 of this report. A financial reporting summary, including information about revenue and expenditure, an operating statement and a staffing summary, appears in part 1.

The ACCC/AER's outcome summary in appendix 1 contains a resource summary.

Developments that have affected or may affect the ACCC/AER's operations or financial results

No developments since the end of the financial year have affected, or may affect, Outcome 1 operations or financial results.

Part 5

Financial statements



INDEPENDENT AUDITOR'S REPORT

To the Treasurer

I have audited the accompanying annual financial statements of the Australian Competition and Consumer Commission for the year ended 30 June 2015, which comprise:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Schedule of Commitments;
- Administered Schedule of Comprehensive Income;
- Administered Schedule of Assets and Liabilities;
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement; and
- Notes to and forming part of the financial statements, comprising a Summary of Significant Accounting Policies and other explanatory information.

Accountable Authority's Responsibility for the Financial Statements

The Chariman of the Australian Competition and Consumer Commission is responsible under the *Public Governance, Performance and Accountability Act 2013* for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards and the rules made under that Act. The Chariman is also responsible for such internal control as is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers

GPO Box 707 CANBERRA ACT 2601
19 National Circuit BARTON ACT
Phone (02) 6203 7300 Fax (02) 6203 7777

internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Accountable Authority of the entity, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting my audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Opinion

In my opinion, the financial statements of the Australian Competition and Consumer Commission:

- (a) comply with Australian Accounting Standards and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Australian Competition and Consumer Commission as at 30 June 2015 and its financial performance and cash flows for the year then ended.

Australian National Audit Office

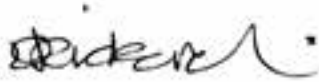


Jocelyn Ashford
Executive Director
Delegate of the Auditor-General
Canberra
25 August 2015

**AUSTRALIAN COMPETITION & CONSUMER COMMISSION
STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER**

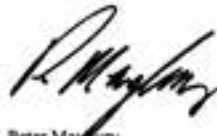
In our opinion, the attached financial statements for the year ended 30 June 2015 comply with subsection 42(2) of the Public Governance, Performance and Accountability Act 2013 (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the non-corporate Commonwealth entity will be able to pay its debts as and when they fall due.



Delia Rickard
Acting Chair and Accountable Authority
Australian Competition & Consumer Commission

25 August 2015



Peter Maybury
Chief Financial Officer
Australian Competition & Consumer Commission

25 August 2015

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
STATEMENT OF COMPREHENSIVE INCOME
for the period ended 30 June 2015

	Notes	2015 \$'000	2014 \$'000
NET COST OF SERVICES			
Expenses			
Employee benefits	4A	97,372	107,091
Supplier expenses	4B	72,470	66,673
Depreciation and amortisation	4C	5,779	5,742
Finance costs	4D	88	52
Write-down and impairment of assets	4E	673	14
Other expenses	4F	150	3,530
Total expenses		176,532	183,102
LESS:			
Own-Source Income			
Own-source revenue			
Sale of goods and rendering of services	5A	1,189	782
Other revenue	5B	1,432	274
Total own-source revenue		2,621	1,056
Gains			
Other gains	5C	91	105
Total gains		91	105
Total own-source income		2,712	1,161
Net cost of services		173,820	181,941
Revenue from Government	5D	167,446	179,517
Deficit attributable to the Australian Government		(6,374)	(2,424)
OTHER COMPREHENSIVE INCOME			
Items not subject to subsequent reclassification to net cost of services			
Changes in asset revaluation surplus		247	(14)
Total other comprehensive income		247	(14)
Total comprehensive income/(loss) attributable to the Australian Government		(6,127)	(2,438)

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
STATEMENT OF FINANCIAL POSITION
as at 30 June 2015

	Notes	2015 \$'000	2014 \$'000
ASSETS			
Financial assets			
Cash and cash equivalents	7A	1,083	1,941
Trade and other receivables	7B	36,576	26,662
Total financial assets		<u>37,659</u>	<u>28,603</u>
Non-financial assets			
Leasehold improvements	8A,C	12,643	13,769
Property, plant and equipment	8B,C	5,020	6,427
Intangibles	8D,E	3,839	3,237
Inventories	8F	-	10
Other non-financial assets	8G	1,038	1,539
Total non-financial assets		<u>22,540</u>	<u>24,982</u>
Total assets		<u><u>60,199</u></u>	<u><u>53,585</u></u>
LIABILITIES			
Payables			
Suppliers	9A	8,644	6,331
Other	9B	16,389	14,109
Total payables		<u>25,033</u>	<u>20,440</u>
Provisions			
Employee provisions	10A	26,178	23,818
Other	10B	5,906	4,831
Total provisions		<u>32,084</u>	<u>28,649</u>
Total liabilities		<u><u>57,117</u></u>	<u><u>49,089</u></u>
Net assets		<u><u>3,082</u></u>	<u><u>4,496</u></u>
EQUITY			
Contributed equity		68,331	63,618
Reserves		3,966	3,719
Retained surplus/(Accumulated deficit)		(69,215)	(62,841)
Total equity		<u><u>3,082</u></u>	<u><u>4,496</u></u>

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
STATEMENT OF CHANGES IN EQUITY

for the period ended 30 June 2015

	Retained earnings		Asset revaluation surplus		Contributed equity/capital		Total equity	
	2015 \$'000	2014 \$'000	2015 \$'000	2014 \$'000	2015 \$'000	2014 \$'000	2015 \$'000	2014 \$'000
Opening balance								
Balance carried forward from previous period	(62,841)	(60,417)	3,719	3,733	63,618	47,283	4,496	(9,401)
Adjusted opening balance	(62,841)	(60,417)	3,719	3,733	63,618	47,283	4,496	(9,401)
Comprehensive income								
Other comprehensive income - changes in asset revaluation reserve	-	-	247	(14)	-	-	-	247
Deficit for the period	(6,374)	(2,424)	-	-	-	-	-	(6,374)
Total comprehensive income	(6,374)	(2,424)	247	(14)	-	-	(6,127)	(2,438)
Contribution by owners								
Appropriation (equity injection)	-	-	-	-	2,700	14,310	2,700	14,310
Departmental Capital Budget (DCB)	-	-	-	-	2,013	2,025	2,013	2,025
Total transactions with owners	-	-	-	-	4,713	16,335	4,713	16,335
Closing Balance as at 30 June 2015	(69,215)	(62,841)	3,966	3,719	68,331	63,618	3,082	4,496

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
CASH FLOW STATEMENT
for the period ended 30 June 2015

	Notes	2015 \$'000	2014 \$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations		165,238	177,754
Sale of goods and rendering of services		1,621	303
Net GST received		6,456	6,445
Other		<u>3,804</u>	<u>274</u>
Total cash received		<u>177,119</u>	<u>184,776</u>
Cash used			
Employees		(94,685)	(108,666)
Suppliers		(77,515)	(68,020)
Section 74 receipts transferred to OPA		(5,458)	(1,348)
Other		<u>(150)</u>	<u>(3,527)</u>
Total cash used		<u>(177,808)</u>	<u>(181,561)</u>
Net cash from/(used by) operating activities	11	<u>(689)</u>	<u>3,215</u>
INVESTING ACTIVITIES			
Cash used			
Purchase of property, plant and equipment		<u>(3,178)</u>	<u>(5,609)</u>
Total cash used		<u>(3,178)</u>	<u>(5,609)</u>
Net cash from/(used by) investing activities		<u>(3,178)</u>	<u>(5,609)</u>
FINANCING ACTIVITIES			
Cash received			
Contributed equity		<u>3,009</u>	<u>3,743</u>
Total cash received		<u>3,009</u>	<u>3,743</u>
Net cash from financing activities		<u>3,009</u>	<u>3,743</u>
Net increase/(decrease) in cash held		<u>(858)</u>	<u>1,349</u>
Cash and cash equivalents at the beginning of the reporting period		<u>1,941</u>	<u>592</u>
Cash and cash equivalents at the end of the reporting period	7A	<u>1,083</u>	<u>1,941</u>

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
SCHEDULE OF COMMITMENTS

as at 30 June 2015

	2015	2014
	\$'000	\$'000
BY TYPE		
Commitments receivable		
Other	3,597	1,540
Net GST recoverable on commitments	8,650	10,509
Total commitments receivable	12,247	12,049
Commitments payable		
Other commitments		
Operating leases ¹	(83,334)	(97,313)
Contracts for IT services ²	(9,211)	(11,176)
Other ³	(6,207)	(8,658)
Total other commitments	(98,752)	(117,147)
Net commitments by type	(86,505)	(105,098)
BY MATURITY		
Commitments receivable		
Other commitments receivable		
One year or less	4,378	3,479
From one to five years	5,371	5,453
Over five years	2,259	3,118
Total commitments receivable	12,008	12,049
Commitments payable		
Operating lease commitments		
One year or less	(13,464)	(13,281)
From one to five years	(45,025)	(49,736)
Over five years	(24,606)	(34,296)
Total operating lease commitments	(83,095)	(97,313)
Other commitments		
One year or less	(14,192)	(17,288)
From one to five years	(1,226)	(2,546)
Total other commitments	(15,418)	(19,834)
Total commitments payable	(98,513)	(117,147)
Net commitments by maturity	(86,505)	(105,098)

Note: Commitments are GST inclusive where relevant.

¹ Operating leases included are effectively non-cancellable and comprise:

Leases for office accommodation

Lease payments are subject to annual increases of between 3% and 5% per annum. Lease terms are between two and fifteen years with the majority of leases containing an option to renew for a further term of up to ten years.

Agreement for the provision of motor vehicles to senior executive officers

No contingent rentals exist. There are no renewal or purchase options available to the Commission.

² Various contracts for Information Technology services.

³ Other commitments mainly include contracts for the provision of consultancy services.

The above schedule should be read in conjunction with the accompanying notes.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
ADMINISTERED SCHEDULE OF COMPREHENSIVE INCOME
for the period ended 30 June 2015

	Notes	2015 \$'000	2014 \$'000
NET COST OF SERVICES			
Expenses			
Impairment of receivables	16A	2,262	2,874
Refund of fees and fines	16A	<u>11,000</u>	-
Total expenses		<u>13,262</u>	<u>2,874</u>
Income			
Revenue			
Non-taxation revenue			
Fees and fines	17A	<u>34,050</u>	<u>32,345</u>
Total non-taxation revenue		<u>34,050</u>	<u>32,345</u>
Total income		<u>34,050</u>	<u>32,345</u>
Net cost of/(contribution by) services		<u>(20,788)</u>	<u>(29,471)</u>
Surplus on continuing operations		<u>20,788</u>	<u>29,471</u>
Total comprehensive surplus attributable to the Australian Government		<u>20,788</u>	<u>29,471</u>

The 2014 comparatives have been amended to reflect adjustments made, refer to Note 1.21.

The above schedule should be read in conjunction with the accompanying notes.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
ADMINISTERED SCHEDULE OF ASSETS AND LIABILITIES
as at 30 June 2015

	Notes	2015 \$'000	2014 \$'000
ASSETS			
Financial assets			
Cash and cash equivalents	18A	-	9
Trade and other receivables	18B	<u>5,252</u>	<u>6,284</u>
Total financial assets		<u>5,252</u>	<u>6,293</u>
Total assets administered on behalf of Government		<u>5,252</u>	<u>6,293</u>
LIABILITIES			
Payables			
Fees and fines	19A	<u>11,000</u>	-
Total payables		<u>11,000</u>	-
Total liabilities administered on behalf of Government		<u>11,000</u>	-
Net assets		<u>(5,748)</u>	<u>6,293</u>

The 2014 comparatives have been amended to reflect adjustments made, refer to Note 1.21.

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
ADMINISTERED RECONCILIATION SCHEDULE
for the period ended 30 June 2015

	2015	2014
	\$'000	\$'000
Opening assets less liabilities as at 1 July	<u>6,294</u>	<u>12,595</u>
Adjusted opening assets less liabilities	<u>6,294</u>	<u>12,595</u>
Income	34,050	32,345
Expenses		
Impairment of receivables	(2,262)	(2,874)
Refund of fees and fines	(11,000)	
Transfers to Australian Government		
Appropriation transfers to OPA		
Transfers to OPA	<u>(32,830)</u>	<u>(35,772)</u>
Closing assets less liabilities as at 30 June	<u><u>(5,748)</u></u>	<u><u>6,294</u></u>

The 2014 comparatives have been amended to reflect adjustments made, refer to Note 1.21.

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
ADMINISTERED CASH FLOW STATEMENT
for the period ended 30 June 2015

	Notes	2015 \$'000	2014 \$'000
OPERATING ACTIVITIES			
Cash received			
Fines and costs		32,581	35,511
Other fees		240	252
Total cash received		<u>32,821</u>	<u>35,763</u>
Net cash from/(used by) operating activities	20	<u>32,821</u>	<u>35,763</u>
Cash and cash equivalents at the beginning of the reporting period		9	18
Cash to official public account received			
Appropriations		(32,830)	(35,772)
Cash and cash equivalents at the end of the period	18A	<u>-</u>	<u>9</u>

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
INDEX TO THE NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

- Note 1: Summary of Significant Accounting Policies
- Note 2: Events after the Reporting Period
- Note 3: Net Cash Appropriation Arrangements
- Note 4: Expenses
- Note 5: Own-Source Income
- Note 6: Fair Value Measurements
- Note 7: Financial Assets
- Note 8: Non-Financial Assets
- Note 9: Payables
- Note 10: Provisions
- Note 11: Cash Flow Reconciliation
- Note 12: Contingent Assets and Liabilities
- Note 13: Senior Management Personnel Remuneration
- Note 14: Financial Instruments
- Note 15: Financial Assets Reconciliation
- Note 16: Administered - Expenses
- Note 17: Administered - Income
- Note 18: Administered - Financial Assets
- Note 19: Administered - Payables
- Note 20: Administered - Cash Flow Reconciliation
- Note 21: Administered - Contingent Assets and Liabilities
- Note 22: Administered - Financial Instruments
- Note 23: Administered - Financial Assets Reconciliation
- Note 24: Appropriations
- Note 25: Special Accounts
- Note 26: Reporting of Outcomes
- Note 27: Budgetary Reports and Explanations of Major Variances

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 1: Summary of Significant Accounting Policies

1.1 Objectives of the Australian Competition and Consumer Commission (the Commission)

The Commission is an Australian Government controlled entity. It is a not-for-profit entity. The objectives of the Commission are to:

- maintain and promote competition and remedy market failure;
- protect the interests and safety of consumers and support fair trading in markets affecting consumers and small business; and
- promote the economically efficient operation of, use of, and investment in monopoly infrastructure in the long term interests of end users.

The Commission's outcome is lawful competition, consumer protection, and regulated national infrastructure markets and services through regulation, including enforcement, education, price monitoring and determining the terms of access to infrastructure services.

The continued existence of the Commission in its present form and with its present programs is dependent on Government policy and on continuing funding by Parliament for the Commission's administration and programs.

The Commission's activities contributing toward these outcomes are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by the Commission in its own right. Administered activities involve the management or oversight by the Commission, on behalf of the Government, of items controlled or incurred by the Government.

The Commission does not conduct administered activities, however, fines and penalties collected are returned to the Commonwealth as administered items. Contingent gains are recognised as administered items, and contingent losses are recognised as departmental items.

1.2 Basis of Preparation of the Financial Statements

The financial statements are general purpose financial statements and are required by section 42 of the Public Governance, Performance and Accountability Act 2013.

The financial statements and notes have been prepared in accordance with:

- a) Financial Reporting Rule (FRR) for reporting periods ending on or after 1 July 2014; and
- b) Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless an alternative treatment is specifically required by an accounting standard or the FRR, assets and liabilities are recognised in the statement of financial position when and only when it is probable that future economic benefits will flow to the Commission or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under executory contracts are not recognised unless required by an accounting standard. Liabilities and assets that are unrecognised are reported in the schedule of commitments or the contingencies note.

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the Statement of Comprehensive Income when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

1.3 Significant Accounting Judgements and Estimates

In the process of applying the accounting policies listed in this note, the Commission has made the following judgements that have the most significant impact on the amounts recorded in the financial statements:

- The fair value of leasehold improvement asset class is determined using the depreciated replacement cost approach, as such assets do not transact with enough frequency or transparency to develop objective opinions of value;
- The Australian Government shorthand method has been used to estimate the present value of long service leave liabilities.

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next reporting period.

1.4 New Australian Accounting Standards

Adoption of New Australian Accounting Standard Requirements

No accounting standard has been adopted earlier than the application date as stated in the standard.

The following accounting standard was adopted for the current reporting period.

Standard / Interpretation	Application date	Nature of changes in accounting policy and impact on initial application
AASB 1055 Budgetary Reporting	1 July 2014	This new standard requires reporting of budgetary information and explanation of significant variance between actual and budgeted amounts by not-for-profit entities within the Government Sector. Impact: new requirement to report budgetary information and to explain significant variances between budget and actuals are at the Agency level.

There have been no other new standards, amended standards or interpretations that were issued by the Australian Accounting Standards Board prior to the sign off date that are applicable to the current reporting period and have a material impact on the Commission.

Future Australian Accounting Standard Requirements

The following new standards, revised standards, interpretations and amending standards were issued by the Australian Accounting Standards Board prior to the sign-off date and apply to the future reporting period, they are expected to have a material impact on the agency for future reporting periods:

Standard / Interpretation	Application date	Nature of impending changes in accounting policy and likely impact on initial application
AASB 9 <i>Financial Instruments</i>	1 July 2017	This revised standard represents the first phase of a three phase project to replace AASB 139 <i>Financial Instruments: Recognition and Measurement</i> . The amendments reduce the four categories of financial assets to two - amortised cost and fair value. Financial assets are to be measured at fair value unless they are held to collect cash flows and solely comprise the payment of interest and principal on specified dates. Gains and losses on assets carried at fair value are taken to profit or loss, unless they are equity instruments not held for trading and the entity initially elects to recognise gains/losses in other comprehensive income. Likely impact: potential impact on the recognition and measurement of financial instruments. Final outcome will be considered at project completion.

All other new or revised accounting standards and interpretations that were issued prior to the sign-off date and are applicable to future reporting periods are not expected to have a future material impact on the Commission's financial statements.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

1.5 Revenue

Revenue from the sale of goods is recognised when:

- the risks and rewards of ownership have been transferred to the buyer;
- the Commission retains no managerial involvement or effective control over the goods;
- the revenue and transaction costs incurred can be reliably measured; and
- it is probable that the economic benefits associated with the transaction will flow to the Commission.

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when:

- the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- the probable economic benefits associated with the transaction will flow to the Commission.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance amount. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

Resources Received Free of Charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another non-corporate or corporate Commonwealth entity as a consequence of a restructuring of administrative arrangements (refer to Note 1.7).

Revenue from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the Commission gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

Parental Leave Payments Scheme

Amounts received under the Parental Leave Payments Scheme by the Commission not yet paid to employees were presented gross as cash and a liability (payable). The total amount received under this scheme is \$341,000 (2014: \$243,000).

1.6 Gains

Resources Received Free of Charge

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another non-corporate or corporate Commonwealth entity as a consequence of a restructuring of administrative arrangements. (Refer to Note 1.7).

Sale of Assets

Gains from disposal of non-current assets are recognised when control of the asset has passed to the buyer.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

1.7 Transactions with the Government as Owner

Equity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

Restructuring of Administrative Arrangements

Net assets received from or relinquished to another Government entity under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

1.8 Employee Benefits

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits expected within 12 months of the end of the reporting period are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Commission is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is likely to be taken, including the Commission's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been calculated using the Australian Government short hand method. The estimate of present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and Redundancy

Provision is made for separation and redundancy benefit payments. The Commission recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

The Commission's staff are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS accumulation plan (PSSap) and other superannuation plans.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap and the other superannuation plans are defined contribution schemes.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedules and notes.

The Commission makes employer contributions to the employees' superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. The Commission accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

1.9 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

There are currently no finance leases within the Commission.

1.10 Borrowing Costs

All borrowing costs are expensed as incurred.

1.11 Fair Value Measurement

The Commission deems transfers between levels of the fair value hierarchy to have occurred at 30 June 2015 following an assessment by the independent external valuer, Australian Valuation Solutions. Where there are changes in observable markets, assets may transfer between categories of the fair value hierarchy.

1.12 Cash

Cash is recognised at its nominal amount. Cash and cash equivalents includes:

- a) cash on hand;
- b) demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value;
- c) cash held with outsiders; and
- d) cash in special accounts.

1.13 Financial Assets

The Commission classifies its financial assets as loans and receivables.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition. Financial assets are recognised and derecognised upon trade date.

Effective Interest Method

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, where appropriate, a shorter period.

Income is recognised on an effective interest rate basis except for financial assets that are recognised at fair value through profit or loss.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Financial Assets at Fair Value Through Profit or Loss

Financial assets are classified as financial assets at fair value through profit or loss where the financial assets:

- a) have been acquired principally for the purpose of selling in the near future;
- b) are derivatives that are not designated and effective as a hedging instrument; or
- c) are parts of an identified portfolio of financial instruments that the entity manages together and has a recent actual pattern of short-term profit-taking.

Assets in this category are classified as current assets.

Financial assets at fair value through profit or loss are stated at fair value, with any resultant gain or loss recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest earned on the financial asset.

Loans and Receivables

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period.

Financial assets held at amortised cost - if there is objective evidence that an impairment loss has been incurred for loans and receivables or held to maturity investments held at amortised cost, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the Statement of Comprehensive Income.

Financial assets held at cost - If there is objective evidence that an impairment loss has been incurred, the amount of the impairment loss is the difference between the carrying amount of the asset and the present value of the estimated future cash flows discounted at the current market rate for similar assets.

1.14 Financial Liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

Financial Liabilities at Fair Value Through Profit or Loss

Financial liabilities at fair value through profit or loss are initially measured at fair value. Subsequent fair value adjustments are recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest paid on the financial liability.

Other Financial Liabilities

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs. These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.15 Contingent Liabilities and Contingent Assets

Contingent liabilities and contingent assets are not recognised in the statement of financial position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

1.16 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor's accounts immediately prior to the restructuring.

1.17 Property, Plant and Equipment

Asset Recognition Threshold

Purchases of property, plant and equipment are recognised initially at cost in the balance sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition.

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions in property leases taken up by the Commission where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Commission's leasehold improvements with a corresponding provision for the 'make good' recognised.

Revaluations

Fair value of each class of asset are determined as shown below:

Asset Class	Fair value measured at
Leasehold improvements	Depreciated replacement cost
Property, plant and equipment	Market selling price, depreciated replacement cost

Following initial recognition at cost, property, plant and equipment is carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended upon the volatility of movements in market values for the relevant assets.

Assets within the property, plant and equipment asset class include assets that have been measured using differing valuation techniques. The selection of the most appropriate technique to measure fair value is dependent on the nature of the asset being measured and the exit market within which the asset would transact. No individual assets were measured using multiple valuation techniques.

Revaluation adjustments were made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets were recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Commission using, in all cases, the straight line method of depreciation. Leasehold improvements are depreciated on a straight-line basis over the lesser of the estimated useful life of the improvements or the unexpired period of the lease.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the useful lives:

Asset Class	2015	2014
Leasehold improvements	Lesser of the term of the lease or 15 years	Lesser of the term of the lease or 15 years
Furniture and fittings	10 years	10 years
Office equipment	5 years	5 years
Computer hardware	3 to 5 years	3 to 5 years
Computer software	3 to 7 years	3 to 7 years

Impairment

All assets were assessed for impairment at 30 June 2015. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the Commission was deprived of the asset, its value in use is taken to be its depreciated replacement cost.

Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

1.18 Intangibles

The Commission's intangibles comprise purchased and internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses. These assets are carried at cost above the capitalisation threshold of \$10,000, below this amount they are expensed in the year of purchase.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the Commission's software are 3 to 7 years. (2013-14: 3 to 7 years).

All software assets were assessed for impairment as at 30 June 2015. There were no indicators of impairment.

1.19 Inventories

Inventories (publications) held for sale are valued at the lower of cost or net realisable value.

Inventories held for distribution are valued at cost, adjusted for any loss of service potential.

Costs incurred in bringing each item of inventory to its present location and condition relate solely to printing and delivery. These costs are assigned to inventory at purchase cost and recognised on a first-in-first-out basis.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

1.20 Taxation/ Competitive Neutrality

The Commission is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Revenues, expenses and assets are recognised net of GST except:

- where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- for receivables and payables.

Competitive Neutrality

The Commission provides services on a not-for-profit basis which are not subject to Competitive Neutrality arrangements.

1.21 Correction of an error

The ACCC generates administered revenue on behalf of the Australian Government in the form of fees and penalties where legal action has been taken against organisations for the breach of the Competition and Consumer Act 2010 and the fees and penalties have been applied by the courts, or by agreement between the ACCC and the defendant.

Administered revenue, in the form of fees and penalties, is recognised when a court judgement has been given in the ACCC's favour or when an agreement has been reached with the defendant as the penalty or fee becomes legally enforceable at this point.

However, due to notification delays, the Commission recognised administered revenue relating to court judgements passed down in prior periods in the current financial year. As a consequence, administered receivables and revenue were understated.

The error was discovered during the 2014-15 interim audit process. In May 2015, the Commission conducted a detailed review of its administered revenue and implemented additional measures to strengthen existing controls.

The error has been corrected by restating each of the affected financial statement line items for the prior periods as follows:

Impact on equity (increase/(decrease) in equity)

	30 June 2014 \$'000	30 June 2013 \$'000
Trade receivables	2,295	750
Impairment	(325)	(750)
Total assets	1,970	-
Net impact on equity	1,970	-

Impact on Statement of Comprehensive Income

	30 June 2014 \$'000
Fees and fines revenue	2,295
Impairment allowance expense	(325)
Net impact on surplus for the year	1,970
Attributable to:	
Revenue to the Australian Government	1,970

The change did not have an impact on the Cashflow Statement for the period.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

1.22 Reporting of Administered Activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the administered schedules and related notes.

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards.

Administered Cash Transfers to and from Official Public Account

Revenue collected by the Commission for use by the Government rather than the Commission is administered revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by the Commission on behalf of the Government and reported as such in the schedule of administered cash flows in the administered reconciliation schedule.

Revenue

All administered revenues are revenues relating to ordinary activities performed by the Commission on behalf of the Australian Government. As such, administered appropriations are not revenues of the individual entity that oversees distribution or expenditure of the funds as directed.

Revenue is generated from fines and costs applied by the courts, or by agreement between the Commission and the defendant. It is recognised when awarded by the courts, or when agreement has been executed.

The court costs awarded against the Commission are recorded as a departmental expense.

Authorisation and notification fees and other revenue are applied when required under the relevant legislation, and are recognised upon payment.

Administered fee revenue is recognised at its nominal amount due less any allowance for bad or doubtful debts. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collection of the debt is judged to be less rather than more likely.

Schedule of Administered Commitments

The Commission has no administered commitments in the current or the immediately preceding reporting periods.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 2: Events After the Reporting Period

Departmental

On 1 July 2015, the Commission entered into a sub-lease arrangement with the Safe Work Australia. The arrangement has been agreed to for a period of seven years, and may be extended for an additional five years dependent on agreement by both parties.

Administered

On 31 July 2015, judgement was handed down by the Full Federal Court in the matter of Flight Centre Limited v ACCC QUD of 2014. The judgement allows Flight Centre's appeal against the judgement of 28 March 2014 in which Flight Centre Limited (FCL) was ordered to pay a penalty of \$11,000,000 to the ACCC. As a consequence, the penalty payment is to be refunded to FCL. The Administered Schedules reflects this event in accordance with AASB 110 Events After the Reporting Date.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 3: Net Cash Appropriation Arrangements

	2015	2014
	\$'000	\$'000
Total comprehensive income/(loss) less depreciation/amortisation expenses previously funded through revenue appropriations¹	(348)	3,304
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	<u>5,779</u>	<u>5,742</u>
Total comprehensive income - as per the Statement of Comprehensive Income	<u>(6,127)</u>	<u>(2,438)</u>

1. From 2010-11, the Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 4: Expenses

	2015	2014
	\$'000	\$'000
Note 4A: Employee Benefits		
Wages and salaries	73,466	78,112
Superannuation		
Defined contribution plans	6,674	6,867
Defined benefit plans	7,107	7,496
Leave and other entitlements	9,081	8,639
Separation and redundancies	449	5,249
Other employee benefits	595	728
Total employee benefits	97,372	107,091
Note 4B: Suppliers		
Goods and Services supplied or rendered		
Legal expenses	24,533	23,366
Consultants and contracted services	13,790	7,151
Information technology and communications	9,076	10,091
Property operating expenses	4,577	3,658
Travel expenses	3,099	3,037
Employee related expenses	1,720	1,533
Information management expenses	1,881	1,906
Other administration expenses	1,662	1,113
Total goods and services supplied or rendered	60,338	51,855
Goods supplied in connection with		
Related parties	11	48
External parties	1,638	1,473
Total goods supplied	1,649	1,521
Services rendered in connection with		
Related parties	11,977	12,795
External parties	46,712	37,539
Total services rendered	58,689	50,334
Total goods and services supplied or rendered	60,338	51,855
Other suppliers		
Operating lease rentals in connection with		
External parties		
Minimum lease payments	11,466	14,307
Workers compensation premiums	666	511
Total other suppliers	12,132	14,818
Total suppliers	72,470	66,673

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

	2015	2014
	\$'000	\$'000
<u>Note 4C: Depreciation and Amortisation</u>		
Depreciation		
Property, plant and equipment	1,841	1,874
Leasehold improvements	<u>2,250</u>	<u>2,231</u>
Total depreciation	<u>4,091</u>	<u>4,105</u>
Amortisation		
Intangibles	<u>1,688</u>	<u>1,637</u>
Total amortisation	<u>1,688</u>	<u>1,637</u>
Total depreciation and amortisation	<u>5,779</u>	<u>5,742</u>
<u>Note 4D: Finance Costs</u>		
Unwinding of discount	<u>88</u>	<u>52</u>
Total finance costs	<u>88</u>	<u>52</u>
<u>Note 4E: Write-Down and Impairment of Assets</u>		
Impairment of property, plant and equipment	663	2
Impairment of inventory	<u>10</u>	<u>12</u>
Total write-down and impairment of assets	<u>673</u>	<u>14</u>
<u>Note 4F: Other Expenses</u>		
Settlement of litigation	<u>150</u>	<u>3,530</u>
Total write-down and impairment of assets	<u>150</u>	<u>3,530</u>

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 5: Own-Source Income

	2015	2014
	\$'000	\$'000
Own-Source Revenue		
<u>Note 5A: Sale of Goods and Rendering of Services</u>		
Rendering services in connection with		
Related parties	750	216
External parties	439	566
Total rendering of services	1,189	782
Total sale of goods and rendering of services	1,189	782
<u>Note 5B: Other Revenue</u>		
Rebates and expense refunds	1,432	274
Total other revenue	1,432	274
Gains		
<u>Note 5C: Other Gains</u>		
Resources received free of charge		
Remuneration of auditors	91	80
Gain on payout of make good provision	-	25
Total other gains	91	105
<u>Note 5D: Revenue from Government</u>		
Appropriations		
Departmental appropriation	167,446	179,517
Total revenue from Government	167,446	179,517

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 6: Fair Value Measurements

The following tables provide an analysis of assets and liabilities that are measured at fair value. The different levels of the fair value hierarchy are defined below.

- Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at measurement date.
- Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.
- Level 3: Unobservable inputs for the asset or liability.

Note 6A: Fair Value Measurements, Valuation Techniques and Inputs Used

	Fair value measurements at the end of the reporting period			For Levels 2 and 3 fair value measurements			Sensitivity of the fair value measurement to changes in unobservable inputs
	2015 \$'000	2014 \$'000	Category (Level 1, 2 or 3) ¹	Valuation technique(s) ²	Inputs used	Range (weighted average)	
Non-financial assets³							
Leasehold improvements ¹	12,643	13,769	Level 3	Depreciated Replacement Cost (DRC)	Replacement Cost New (price per square metre)		
Property, plant and equipment ¹	2,289	6,427	Level 2	Market Approach	Consumed economic benefit / Obsolescence of asset	6.7% - 40.0% (8.6%) per annum	A significant increase (decrease) in this consumed economic benefit / obsolescence of the asset would result in a significantly lower (higher) fair value measurement
Property, plant and equipment ¹	1,645	-	Level 3	Market Approach	Adjusted market transactions	(15.0%) - 10.0%	A significant increase (decrease) in market demand of the asset would result in a significantly higher (lower) fair value measurement
Property, plant and equipment ¹	1,086	-	Level 3	Depreciated Replacement Cost (DRC)	Replacement Cost New		
Total non-financial assets	17,663	20,196					

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 6A: Fair Value Measurements, Valuation Techniques and Inputs Used (cont)

1. The Commission did not measure any non-financial assets at fair value on a non-recurring basis as at 30 June 2015 (2014: Nil).
2. There has been changes to valuation techniques for assets in the property, plant and equipment class. In instances where sufficient observable inputs, such as market transactions of similar assets, were not identified at 30 June 2015, the valuation technique was changed from a Market approach to a DRC approach (2014: Nil).
3. Fair value measurements - highest and best use differs from current use for non-financial assets (NFAs)
The Commissions' assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of all NFAs is considered their highest and best use.
4. Recurring and non-recurring Level 3 fair value measurements - valuation processes
The Commission engaged Australian Valuation Solutions to undertake a full revaluation of all non financial assets as at 30 June 2015. The Commission tests the procedures of the valuation models at least once every 12 months with a formal revaluation undertaken once every three years. If a particular asset class experiences significant and volatile changes in fair value (i.e. where indicators suggest that the value of the class has changed materially since the previous reporting period), that class is subject to specific valuation in the reporting period, where practicable, regardless of the timing of the last specific valuation.

Significant Level 3 inputs utilised by the entity are derived and evaluated as follows:

Property, Plant and Equipment - Adjusted Market Transaction

Asset that transact within second-hand markets have been measured using the market approach. Significant professional judgement has been utilised to measure fair value for assets where limit market evidence was identified.

Leasehold Improvements, Property, Plant and Equipment - Consumed economic benefit / Obsolescence of asset

Assets that do not transact with enough frequency or transparency to develop objective opinions of value from observable market evidence have been measured utilising the cost (Depreciated Replacement Cost or DRC) approach. Under the DRC approach the estimated cost to replace the asset is calculated and then adjusted to take into account its consumed economic benefit / asset obsolescence (accumulated Depreciation). Consumed economic benefit / asset obsolescence has been determined based on professional judgement regarding physical, economic and external obsolescence factors relevant to the asset under consideration.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 6B: Reconciliation for Recurring Level 3 Fair Value Measurements

Recurring Level 3 fair value measurements - reconciliation for assets

	Non-financial assets							
	Leasehold improvements			Property, plant and equipment			Total	
	2015 \$'000	2014 \$'000	2015 \$'000	2014 \$'000	2015 \$'000	2014 \$'000	2015 \$'000	2014 \$'000
As at 1 July	13,769	16,243	-	-	13,769	-	13,769	16,243
Total gains/(losses) recognised in other comprehensive income ¹	(2,250)	(4,368)	-	-	(2,250)	-	(2,250)	(4,368)
Purchases	494	1,894	-	-	494	-	494	1,894
Disposals	-	-	-	-	-	-	-	-
Revaluation	630	-	-	-	630	-	630	-
Transfers into Level 3 ²	-	-	2,731	-	2,731	-	2,731	-
Transfers out of Level 3 ³	-	-	-	-	-	-	-	-
Total as at 30 June	12,643	13,769	2,731	-	15,374	-	15,374	13,769

1. These gains/(losses) are presented in the Statement of Comprehensive Income.

2. There have been transfers of property, plant and equipment asset fair value measurements into level 3 during the year due to changes in the valuation technique from a market approach to DRC.

3. There have been no transfers of fair value measurements out of level 3 during the year.

The Commission deems transfers between levels of the fair value hierarchy to have occurred at 30 June 2015 following an assessment by the independent external valuer, Australian Valuation Solutions.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 7: Financial Assets

	2015	2014
	\$'000	\$'000
Note 7A: Cash and Cash Equivalents		
Cash on hand or on deposit	1,083	1,941
Total cash and cash equivalents	1,083	1,941
Note 7B: Trade and Other Receivables		
Goods and Services receivables in connection with		
Related parties	151	20
External parties	226	166
Total goods and services receivables	377	186
Appropriations receivable		
Existing programs	34,795	25,425
Total appropriations receivables	34,795	25,425
Other receivables		
Statutory receivables	1,404	1,051
Total other receivables	1,404	1,051
Total trade and other receivables (gross)	36,576	26,662
Less impairment allowance		
Goods and services	-	-
Total impairment allowance	-	-
Total trade and other receivables (net)	36,576	26,662
Trade and other receivables (net) expected to be recovered		
No more than 12 months	36,576	26,662
More than 12 months	-	-
Total trade and other receivables (net)	36,576	26,662
Trade and other receivables (gross) aged as follows		
Not overdue	36,523	26,634
Overdue by:		
0 to 30 days	18	-
31 to 60 days	23	28
61 to 90 days	12	-
More than 90 days	-	-
Total trade and other receivables (gross)	36,576	26,662

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 8: Non-Financial Assets

	2015	2014
	\$'000	\$'000
<u>Note 8A: Leasehold Improvements</u>		
Leasehold improvements		
Fair value	12,320	18,119
Work in progress	323	17
Accumulated depreciation	-	(4,367)
Total leasehold improvements	<u>12,643</u>	<u>13,769</u>

No indicators of impairment were found for leasehold improvements.

Note 8B: Property, Plant and Equipment

Property, plant and equipment		
Fair value	4,301	9,918
Work in progress	719	-
Accumulated depreciation	-	(3,491)
Total property, plant and equipment	<u>5,020</u>	<u>6,427</u>

No property, plant and equipment are held under finance lease.

No indicators of impairment were found for property, plant and equipment.

Revaluations of non-financial assets

All revaluations were conducted in accordance with the revaluation policy stated at Note 1. On 30 June 2015, an independent valuer conducted the revaluations.

A revaluation increment of \$0.6m for leasehold improvements (2014: \$nil) was credited to the asset revaluation surplus by asset class and included in the equity section of the Statement of Financial Position. An impairment loss of \$0.6m for property, plant and equipment (2014: \$nil) was recognised in the Statement of Comprehensive Income.

**AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

for the period ended 30 June 2015

Note 8C: Reconciliation of the opening and closing balances of leasehold improvements and property, plant and equipment

Reconciliation of the opening and closing balances of leasehold improvements and property, plant and equipment 2015	Leasehold improvements	Property, Plant and Equipment	TOTAL
	\$'000	\$'000	\$'000
As at 1 July 2014			
Gross book value	18,136	9,918	28,054
Accumulated depreciation/amortisation and impairment	(4,367)	(3,491)	(7,858)
Total as at 1 July 2014	13,769	6,427	20,196
Additions			
Purchase or internally developed	494	1,097	1,591
Impairments recognised in the operating result	-	-	-
Revaluations recognised in other comprehensive income	630	(607)	23
Depreciation	(2,250)	(1,841)	(4,091)
Disposals			
Other disposals/write downs (gross book value)	(77)	(157)	(234)
Other disposals/write downs (accumulated depreciation)	77	101	178
Total as at 30 June 2015	12,643	5,020	17,662
Total as at 30 June 2015 represented by			
Gross book value	12,643	5,020	17,662
Accumulated depreciation and impairment	-	-	-
Total as at 30 June 2015	12,643	5,020	17,662

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Reconciliation of the opening and closing balances of leasehold improvements and property, plant and equipment 2014	Leasehold improvements	Property, Plant and Equipment	TOTAL
	\$'000	\$'000	\$'000
As at 1 July 2013			
Gross book value	16,243	8,705	24,948
Accumulated depreciation/amortisation and impairment	(2,136)	(1,622)	(3,758)
Total as at 1 July 2013	14,107	7,083	21,190
Additions:			
By purchase or internally developed	1,894	1,220	3,114
Impairments recognised in the operating result	-	-	-
Revaluations recognised in other comprehensive income	-	-	-
Depreciation expense	(2,231)	(1,874)	(4,105)
Write-downs			
Disposals			
Other disposals/write downs (gross book value)	-	(7)	(7)
Other disposals/write downs (accumulated depreciation)	-	5	5
Total as at 30 June 2014	13,770	6,427	20,196
Total as at 30 June 2014 represented by			
Gross book value	18,136	9,918	28,054
Accumulated depreciation and impairment	(4,367)	(3,491)	(7,858)
Total as at 30 June 2014	13,769	6,427	20,196

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

	2015	2014
	\$'000	\$'000
<u>Note 8D: Intangibles</u>		
Computer software		
Purchased	11,678	9,828
Internally developed - in use	-	733
Internally developed - in progress	-	-
Accumulated amortisation	<u>(7,839)</u>	<u>(7,324)</u>
Total computer software	<u>3,839</u>	<u>3,237</u>
Total intangibles	<u>3,839</u>	<u>3,237</u>

No indicators of impairment were found for intangible assets.

No intangibles are expected to be sold or disposed of within the next 12 months.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 8E: Reconciliation of the Opening and Closing Balances of Intangibles

Reconciliation of the opening and closing balances of intangibles for 2015

	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
As at 1 July 2014			
Gross book value	733	9,827	10,560
Accumulated amortisation and impairment	(689)	(6,634)	(7,323)
Total as at 1 July 2014	44	3,193	3,237
Additions			
Purchase or internally developed	-	2,290	2,290
Revaluations and impairments recognised in other comprehensive income			-
Amortisation	(44)	(1,644)	(1,688)
Disposals	-	-	-
Other	-	-	-
Total as at 30 June 2015	-	3,839	3,839
Total as at 30 June 2015 represented by			
Gross book value	733	12,117	12,850
Accumulated amortisation and impairment	(733)	(8,278)	(9,011)
Total as at 30 June 2015	-	3,839	3,839

**AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

for the period ended 30 June 2015

Reconciliation of the Opening and Closing Balances of Intangibles 2014

	Computer Software internally developed \$'000	Computer software purchased \$'000	Total \$'000
As at 1 July 2013			
Gross book value	733	8,459	9,192
Accumulated amortisation and impairment	(641)	(5,045)	(5,687)
Total as at 1 July 2013	92	3,414	3,505
Additions			
Purchase or internally developed	-	1,368	1,368
Revaluations and impairments recognised in other comprehensive income	-	-	-
Amortisation	(48)	(1,589)	(1,637)
Disposals			
Other	-	-	-
Total as at 30 June 2014	44	3,193	3,237
Net book value as of 30 June 2014 represented by			
Gross book value	733	9,827	10,560
Accumulated amortisation and impairment	(689)	(6,634)	(7,323)
Total as at 30 June 2014	44	3,193	3,237

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

	2015	2014
	\$'000	\$'000
Note 8F: Inventories		
Inventories held for sale		
Publications held for sale	-	10
Total inventories	<u>-</u>	<u>10</u>

All inventories (\$10,264) were written off during 2014-15.

Note 8G: Other non-financial Assets

Prepayments	<u>1,038</u>	<u>1,539</u>
Total other non-financial assets	<u>1,038</u>	<u>1,539</u>
Other non-financial assets expected to be recovered		
No more than 12 months	1,027	1,539
More than 12 months	<u>11</u>	<u>-</u>
Total other non-financial assets	<u>1,038</u>	<u>1,539</u>

No indicators of impairment were found for other non-financial assets.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 9: Payables

	2015	2014
	\$'000	\$'000
Note 9A: Suppliers		
Trade creditors and accruals	8,644	6,331
Total suppliers	<u>8,644</u>	<u>6,331</u>
Suppliers expected to be settled		
No more than 12 months	8,644	6,331
More than 12 months	-	-
Total suppliers	<u>8,644</u>	<u>6,331</u>
Suppliers in connection with		
Related parties	1,955	1,211
External parties	6,689	5,120
Total suppliers	<u>8,644</u>	<u>6,331</u>
Settlement is usually made within 30 days.		
Note 9B: Other Payables		
Lease incentives	5,106	5,931
Operating lease payment increases	5,048	4,522
Wages and salaries	3,662	3,301
Unearned income	2,512	300
Salary sacrifice payable	61	55
Total other payables	<u>16,389</u>	<u>14,109</u>
Total other payables expected to be settled		
No more than 12 months	7,146	4,538
More than 12 months	9,243	9,571
Total other payables	<u>16,389</u>	<u>14,109</u>

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 10: Provisions

	2015	2014
	\$'000	\$'000
Note 10A: Employee provisions		
Leave	26,178	23,818
Separations and redundancies	-	-
Other	-	-
Total employee provisions	<u>26,178</u>	<u>23,818</u>
Employee provisions are expected to be settled		
No more than 12 months	12,486	15,341
More than 12 months	13,692	8,477
Total employee provisions	<u>26,178</u>	<u>23,818</u>
Note 10B: Other Provisions		
Provision for restoration obligations	1,949	1,477
Provision for onerous lease	3,957	3,354
Total other provisions	<u>5,906</u>	<u>4,831</u>
Other provisions are expected to be settled		
No more than 12 months	388	1,313
More than 12 months	5,518	3,518
Total other provisions	<u>5,906</u>	<u>4,831</u>

	Provision for onerous leases	Provision for restoration	TOTAL
As at 1 July 2014	3,354	1,477	4,831
Additional provisions made	1,885	392	2,277
Amounts used	-	-	-
Amounts reversed	(1,290)	-	(1,290)
Unwinding of discount or change in discount rate	8	80	88
Total as at 30 June 2015	<u>3,957</u>	<u>1,949</u>	<u>5,906</u>

The Commission has 10 agreements (2014: 9) for the leasing of premises which have provisions requiring it to restate the premises to their original condition at the conclusion of the lease. The Commission has made a provision to reflect the present value of this obligation.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 11: Cash Flow Reconciliation

	2015	2014
	\$'000	\$'000
Reconciliation of cash and cash equivalents as per statement of financial position to cash flow statement		
Cash and cash equivalents as per		
Cash flow statement	1,083	1,941
Statement of financial position	1,083	1,941
Discrepancy	<u>-</u>	<u>-</u>
Reconciliation of net cost of services to net cash from operating activities		
Net cost of services	(173,820)	(181,941)
Revenue from Government	167,446	179,517
Adjustments for non-cash items		
Depreciation/amortisation	5,779	5,741
Net write-down of non-financial assets	673	2
Finance costs	79	-
Gain on disposal of assets	-	-
Movements in assets and liabilities		
Assets		
(Increase)/ decrease in appropriation receivable	(7,666)	(3,111)
(Increase)/ decrease in GST receivable	(353)	42
(Increase)/ decrease in other receivables	(191)	70
(Increase)/ decrease in inventories	10	12
(Increase)/ decrease in prepayments	501	(780)
(Increase)/ decrease in other assets	-	41
Liabilities		
Increase/ (decrease) in employee provisions	2,360	(1,559)
Increase/ (decrease) in supplier payables	1,610	2,152
Increase/ (decrease) in other payables	2,280	3,071
Increase / (decrease) in other provisions	603	(42)
Net cash from/(used by) operating activities	<u>(689)</u>	<u>3,215</u>

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 12: Contingent Assets and Liabilities

	Claims for damages or costs		Total	
	2015	2014	2015	2014
	\$'000	\$'000	\$'000	\$'000
Contingent liabilities				
Balance from previous period	-	-	-	-
New contingent liabilities recognised	5	-	5	-
Liabilities realised	-	-	-	-
Obligations expired	-	-	-	-
Total contingent liabilities	5	-	5	-

Quantifiable Contingencies

The above Schedule of Contingencies reports contingent liability in respect of claims for damages/costs of \$5,000 (2014: \$nil). The Commission is expecting to be unsuccessful in 1 matter (2014: 0 matters) before the Courts alleging breaches of the Competition and Consumer Act, although the case is continuing. The estimate is based on legal advice and the precedents in such cases.

Unquantifiable Contingencies

As at 30 June 2015, the Commission has 8 matters (2014: 3 matters) before the Courts alleging breaches of the Competition and Consumer Act. It was not possible to estimate the amounts of any eventual payments that may be required in relation to these claims. These were not included in the above table.

Significant Remote Contingencies

The Commission had no significant remote contingencies.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 13: Senior Management Personnel Remuneration

	2015	2014
	\$	\$
Short-term employee benefits		
Salary (including annual leave taken)	12,408,569	12,198,303
Performance bonuses	594,266	641,260
Other ¹	987,778	996,351
Total Short-term employee benefits	<u>13,990,613</u>	<u>13,835,914</u>
Post-employment benefits		
Superannuation	2,437,623	2,151,774
Total post-employment benefits	<u>2,437,623</u>	<u>2,151,774</u>
Other long-term benefits		
Annual leave	910,540	945,340
Long service leave	291,279	302,412
Total other long-term benefits	<u>1,201,819</u>	<u>1,247,752</u>
Termination benefits		
Severance payments	125,709	258,671
Total termination benefits	<u>125,709</u>	<u>258,671</u>
Total	<u>17,755,764</u>	<u>17,494,111</u>

The total number of senior management personnel that are included in the above table are 53 (2014: 58).

The 2013-14 comparatives have been restated to align with new 2014-15 reporting requirements.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 14: Financial Instruments

	2015	2014
	\$'000	\$'000
Note 14A Categories of Financial Instruments		
Financial Assets		
Loans and receivables		
Cash and cash equivalents	1,083	1,941
Trade and other receivable	<u>377</u>	<u>186</u>
Total loans and receivables	<u>1,460</u>	<u>2,127</u>
Total financial assets	<u>1,460</u>	<u>2,127</u>
Financial Liabilities		
Financial liabilities measured at amortised cost		
Trade creditors	8,644	6,331
Other payables	<u>12,666</u>	<u>10,753</u>
Total financial liabilities measured at amortised cost	<u>21,310</u>	<u>17,084</u>
Total financial liabilities	<u>21,310</u>	<u>17,084</u>

The Commission received \$nil (2014: \$nil) in interest income and expense from financial assets and financial liabilities.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
 for the period ended 30 June 2015

Note 14B Fair value of Financial Instruments

	Carrying amount 2015 \$'000	Fair value 2015 \$'000	Carrying amount 2014 \$'000	Fair value 2014 \$'000
Financial Assets				
Cash and cash equivalents	1,083	1,083	1,941	1,941
Trade and other receivables	377	377	186	186
Total financial assets	1,460	1,460	2,127	2,127
Financial Liabilities				
Trade creditors	8,644	8,644	6,331	6,331
Other payables	12,666	12,666	10,753	10,753
Total financial liabilities	21,310	21,310	17,084	17,084

Note 14C Credit Risk

The Commission is exposed to minimal credit risk with the maximum exposure arising from potential default of a debtor. This amount is equal to the total amount of trade receivables (2015: \$377,000 and 2014: \$186,000).

The Commission has assessed the risk of the default on payment and has decided not to allocate an impairment allowance account. The Commission manages its credit risk by ensuring it has policies and procedures in relation to debt management.

The Commission held no collateral to mitigate against credit risk.

Credit quality of financial assets not past due or individually determined as impaired

	Not past due nor impaired 2015 \$'000	Not past due nor impaired 2014 \$'000	Past due or impaired 2015 \$'000	Past due or impaired 2014 \$'000
Cash and cash equivalents	1,083	1,941	-	-
Receivables for goods and services	324	158	53	28
Total	1,407	2,099	53	28

Ageing of financial assets that are past due but not impaired for 2015

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Receivables for goods and services	18	23	12	-	53
Total	18	23	12	-	53

Ageing of financial assets that are past due but not impaired for 2014

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Receivables for goods and services	-	28	-	-	28
Total	-	28	-	-	28

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 14D Liquidity Risk

The Commission's financial liabilities were supplier and other payables. The exposure to liquidity risk was based on the notion that the Commission will encounter difficulty in meeting its obligations associated with financial liabilities. This was highly unlikely as the Commission is appropriated funding from the Australian Government and the Commission manages its budgeted funds to ensure it has adequate funds to meet payments as they fall due. In addition, the Commission has policies in place to ensure timely payments are made when due and has no past experience of default.

Note 14E Market Risk

The Commission held basic financial instruments that do not expose the Commission to certain market risks, such as 'Currency risk' and 'Other price risk'.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 15: Financial Assets Reconciliation

	Notes	2015 \$'000	2014 \$'000
Total financial assets as per statement of financial position		37,659	28,603
Less: non-financial instrument components			
Appropriations receivables	7B	34,795	25,425
Other receivables	7B	<u>1,404</u>	<u>1,051</u>
Total non-financial instrument components		<u>36,199</u>	<u>26,476</u>
Total financial assets as per financial instruments note		<u>1,460</u>	<u>2,127</u>

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 16: Administered - Expenses

	2015	2014
	\$'000	\$'000
Note 16A: Write-Down and Impairment of Assets		
Refund of fees and fines	11,000	-
Impairment of receivables	<u>2,262</u>	<u>2,874</u>
Total write-down and impairment of assets	<u>13,262</u>	<u>2,874</u>

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 17: Administered - Income

	2015	2014
	\$'000	\$'000
Revenue		
Non-Taxation Revenue		
<u>Note 17A: Fees and Fines</u>		
Fines and costs	33,811	32,093
Authorisation fees	149	163
Notifications	90	86
Arbitration fees	-	3
Other fees	-	-
Total fees and fines	34,050	32,345

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 18: Administered - Financial Assets		
	2015	2014
	\$'000	\$'000
Note 18A: Cash and Cash Equivalents		
Cash on hand or on deposit	-	9
Total cash and cash equivalents	<u>-</u>	<u>9</u>
Note 18B: Trade and Other Receivables		
Other receivables		
Fines and costs	16,894	16,492
Total other receivables	<u>16,894</u>	<u>16,492</u>
Total trade and other receivables (gross)	<u>16,894</u>	<u>16,492</u>
Less: Impairment allowance		
Fines and costs	(11,642)	(10,208)
Total impairment allowance	<u>(11,642)</u>	<u>(10,208)</u>
Total trade and other receivables (net)	<u>5,252</u>	<u>6,284</u>
Trade and other receivables (net) expected to be recovered		
No more than 12 months	5,252	6,284
More than 12 months	-	-
Total trade and other receivables (net)	<u>5,252</u>	<u>6,284</u>
Trade and other receivables (gross) are aged as follows		
Not overdue	5,158	5,686
Overdue by:		
0 to 30 days	-	-
31 to 60 days	131	11
61 to 90 days	20	45
More than 90 days	11,585	10,750
Total trade and other receivables (gross)	<u>16,894</u>	<u>16,492</u>
Impairment allowance aged as follows		
Not overdue	-	(1)
Overdue by:		
0 to 30 days	-	-
31 to 60 days	(131)	-
61 to 90 days	(20)	-
More than 90 days	(11,491)	(10,207)
Total impairment allowances	<u>(11,642)</u>	<u>(10,208)</u>

Goods and services receivable was with entities external to the Australian Government. Credit terms were net 30 days (2014: 30 days).

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 18B: Trade and Other Receivables (cont)

Reconciliation of the impairment allowance

Movements in relation to 2015

	Goods and services \$'000	Other receivables \$'000	Total \$'000
Opening balance	-	10,208	10,208
Amounts written off	-	(827)	(827)
Amounts recovered and reversed	-	(45)	(45)
Increase/(decrease) recognised in net cost of services	-	2,307	2,307
Closing balance	-	11,642	11,642

Movements in relation to 2014

	Goods and services \$'000	Other receivables \$'000	Total \$'000
Opening balance	-	6,610	6,610
Amounts written off	-	(26)	(26)
Amounts recovered and reversed	-	-	-
Increase/decrease recognised in net surplus	-	3,624	3,624
Closing balance	-	10,208	10,208

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period ended 30 June 2015

Note 19: Administered - Payables		
	2015	2014
	\$'000	\$'000
Note 19A: Fees and Fines Payable		
Fees and fines	11,000	-
Total suppliers	11,000	-
Supplier payables expected to be settled		
No more than 12 months	11,000	-
More than 12 months	-	-
Total suppliers	11,000	-
Suppliers in connection with		
Related entities	-	-
External parties	11,000	-
Total suppliers	11,000	-
Settlement is usually made within 30 days.		

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 20: Administered - Cash Flow Reconciliation

	2015 \$'000	2014 \$'000
Reconciliation of cash and cash equivalents as per administered schedule if assets and liabilities to administered cash flow statement		
Cash and cash equivalents as per		
Administered cash flow statement	-	9
Administered schedule of assets and liabilities	-	9
Discrepancy	<u>-</u>	<u>-</u>
Reconciliation of net cost of services to net cash from/(used by) operating activities		
Net (cost of)/contribution by services	20,788	29,471
Adjustment for non-cash items		
Net write-down of non-financial assets	-	-
Movements in assets and liabilities		
Assets		
(Increase)/ decrease in net receivables	1,033	6,293
Liabilities		
Increase/ (decrease) in fees and fines payables	<u>11,000</u>	<u>-</u>
Net cash from (used by) operating activities	<u><u>32,821</u></u>	<u><u>35,763</u></u>

**AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

for the period ended 30 June 2015

Note 21: Administered - Contingent Assets and Liabilities

	Claims for damages or costs		Total	
	2015 \$'000	2014 \$'000	2015 \$'000	2014 \$'000
Contingent assets				
Balance from previous period	1,815	2,110	1,815	2,110
New contingent assets recognised	225	1,535	225	1,535
Re-measurement	(455)	1,990	(455)	1,990
Assets recognised	(1,125)	(3,820)	(1,125)	(3,820)
Rights expired	-	-	-	-
Total contingent assets	460	1,815	460	1,815
Contingent liabilities				
Balance from previous period	-	-	-	-
New contingent liabilities recognised	-	-	-	-
Re-measurement	-	-	-	-
Assets recognised	-	-	-	-
Obligations expired	-	-	-	-
Total contingent liabilities	-	-	-	-
Net contingent assets (liabilities)	460	1,815	460	1,815

Quantifiable Administered Contingencies

The above Schedule of Contingencies reports contingent assets in respect of claims for damages/costs of \$460,000 (2014: \$1,815,000). The Commission is expecting to succeed in 4 alleged breaches (2014: 6 alleged breaches) of the Competition and Consumer Act, although the cases are continuing. The estimate is based on legal advice and the precedents in such cases.

Unquantifiable Administered Contingencies

As at 30 June 2015, the Commission has 18 matters (2014: 22 matters) considered unquantifiable. In the event of favourable judgment by the court, the Commission stands to gain by way of penalties or costs awarded. It is not possible to determine the amounts in relation to these matters. These were not included in the schedule of contingencies.

Remote Administered Contingencies

As at 30 June 2015 the Commission had no remote administered contingencies.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 22: Administered - Financial Instruments

	2015	2014
	\$'000	\$'000
Note 22A: Categories of Financial Instruments		
Financial Assets		
Loans and receivables		
Cash on hand or on deposit	-	9
Fines and costs receivable	5,252	6,284
Total loans and receivables	<u>5,252</u>	<u>6,293</u>
Total financial assets	<u>5,252</u>	<u>6,293</u>
Note 22B: Net Gains or Losses on Financial Assets		
Loans and receivables		
Impairment	(2,262)	(2,874)
Net loss on loans and receivables	<u>(2,262)</u>	<u>(2,874)</u>

**AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

for the period ended 30 June 2015

Note 22C: Credit Risk

The Commission is exposed to minimal credit risk with the maximum exposure arising from potential default of a debtor. This amount is equal to the total amount of trade receivables \$16,894,000 (2014: 16,492,000).

The Commission has assessed the risk of the default on payment and has allocated \$11,642,000 in 2015 (2014: \$10,208,000) to an impairment allowance account.

The Commission holds no collateral to mitigate against credit risk.

Credit quality of financial instruments not past due or individually determined as impaired

	Not Past Due Nor Impaired 2015 \$'000	Not Past Due Nor Impaired 2014 \$'000	Past due or impaired 2015 \$'000	Past due or impaired 2014 \$'000
Cash on hand or on deposit	-	9	-	-
Fines and costs receivable	5,158	5,686	94	598
Total	5,158	5,695	94	598

Ageing of financial assets that were past due but not impaired for 2015

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Fines and costs receivable	-	-	-	94	94
Total	-	-	-	94	94

Ageing of financial assets that are past due but not impaired for 2014

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Fines and costs receivable	-	11	45	542	598
Total	-	11	45	542	598

Note 22D: Liquidity Risk

The Commission had no administered financial liabilities that are payables. Accordingly the Commission was not exposed to significant liquidity risk.

The Commission's administered activities relate to fines and costs awarded by courts or through agreements. The Commission managed its budgeted funds to ensure it had adequate funds to meet payments as they fall due. In addition, the Commission had policies in place to ensure timely payments were made when due and had no past experience of default.

Note 22E: Market Risk

The Commission's administered activities were not exposed to 'other price risk'. Its administered activities were not traded on the Australian Stock Exchange. It did not hold any other financial instruments that would be exposed to price risk.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 23: Administered - Financial Assets Reconciliation

	Notes	2015 \$'000	2014 \$'000
Total financial assets as per administered schedule of assets and liabilities			
	18	5,252	6,293
Less: Non-financial instrument components			
Other Receivables		-	-
Total non-financial instrument components		-	-
Total financial assets as per financial instruments note		<u>5,252</u>	<u>6,293</u>

**STATEMENT BY THE CHAIRMAN AND CHIEF FINANCIAL OFFICER
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**
for the period ended 30 June 2015

Note 24: Appropriations

Note 24A: Annual Appropriations (Recoverable GST exclusive)

	Appropriation Act		PGPA Act			Section 51 Determinations ⁴ \$'000
	Annual Appropriation \$'000	AFM ³ \$'000	Section 74 \$'000	Section 75 \$'000	Appropriation applied in 2015 (current and prior years) \$'000	
Departmental						
Ordinary annual services	169,483	-	5,458	-	173,534	1,407
Other services	2,700	-	-	-	996	1,704
Total departmental	172,183	-	5,458	-	174,530	3,111

Notes:

1. In 2014-15, there was no adjustment that met the recognition criteria of a formal addition or reduction in revenue (in accordance with FRR Part 6 Div 3) but at law the appropriations had not been amended before the end of the reporting period.
2. In 2014-15, there were no material variances.
3. Advance to the Finance Minister (AFM) - Appropriation Acts (No. 1,3,5) 2012-13; section 13 and Appropriation Acts (No. 2,4,6) 2012-13; section 15.
4. Relates to the Communications and Public Affairs Functions - targeted savings as per 2014-15 Budget Measures, Budget Paper No.2.

**AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**
for the period ended 30 June 2015

Note 24A (continued): Annual Appropriations ('Recoverable GST exclusive')

	Appropriation Act		FMA Act				Appropriation applied in 2014 (current and prior years) \$'000	Variance (c) \$'000	
	Annual appropriation \$'000	Appropriations reduced (a) \$'000	AFM (b) \$'000	Section 30 \$'000	Section 31 \$'000	Section 32 \$'000			Total appropriation \$'000
Departmental									
Ordinary annual services	181,542	-	-	-	1,348	-	182,890	179,007	3,883
Other services	14,310	-	-	-	-	-	14,310	1,718	12,592
Equity	-	-	-	-	-	-	-	-	-
Loans	-	-	-	-	-	-	-	-	-
Total departmental	195,852	-	-	-	1,348	-	197,200	180,725	16,475

Notes:

(a) Appropriations reduced under Appropriation Acts (No. 1,3 & 5) 2012-13: sections 10, 11, and 12 and under Appropriation Acts (No. 2,4,6) 2012-13: sections 12,13, and 14. Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request the Finance Minister to reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament. In the 2012/13 financial year, the Government imposed both a targeted savings measure and a fire services levy onto the commission totalling \$703,000. The determination was issued on 5 August 2013 by the Finance Minister to reduce Appropriation Act 1 by \$703,000.

(b) Advance to the Finance Minister (AFM) - Appropriation Acts (No. 1,3,5) 2012-13: section 13 and Appropriation Acts (No. 2,4,6) 2012-13: section 15.

(c) The variance between total annual appropriation available and total appropriation applied in 2013 relates to payments funded from unspent prior year appropriation items.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 24B: Departmental Capital Budget (Recoverable GST exclusive)

2015 Capital Budget Appropriations		Capital Budget Appropriations applied in 2015				
<i>Appropriation Act</i>	<i>PGPA Act</i>	(current and prior years)				
Annual Capital Budget \$'000	Section 75 \$'000	Total Capital Budget Appropriations \$'000	Payments for non-financial assets ² \$'000	Payments for other purposes \$'000	Total payments \$'000	Variance ³ \$'000
Departmental						
Ordinary annual services -						
Departmental Capital Budget ¹	2,013	-	2,013	2,013	-	2,013

Notes:

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Note 24A: Annual Appropriations.
2. Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised and costs incurred to make good an asset to its original condition.
3. In 2014-15, there were no material variances.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 24B (Cont'd): Departmental Capital Budgets ('Recoverable GST exclusive')

2014 Capital Budget Appropriations		Capital Budget Appropriations applied in 2014 (current and prior years)				
<i>Appropriation Act</i>	<i>FMA Act</i>	Total Capital Budget Appropriations \$'000	Payments for non-financial assets ^(c) \$'000	Payments for other purposes \$'000	Total payments \$'000	Variance \$'000
Annual Capital Budget \$'000	Appropriations reduced ^(b) \$'000	Section 32 \$'000				
Departmental Ordinary annual services - Departmental Capital Budget ^(a)	2,025	-	2,025	-	2,025	-

Notes:

- (a) Departmental Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations please see Note 24A: Annual appropriations.
- (b) Appropriations reduced under Appropriation Acts (No.1,3,5) 2012-13: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.
- (c) Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 24C: Unspent Annual Appropriations ('Recoverable GST exclusive')

	2015 \$'000	2014 \$'000
Departmental		
Appropriation Act (No. 1) 2013-14	-	2,633
Appropriation Act (No. 3) 2013-14	-	12,141
Appropriation Act (No. 4) 2013-14	11,596	12,592
Appropriation Act (No. 1) 2014-15	21,582	-
Appropriation Act (No. 2) 2014-15	2,700	-
Total departmental	35,878	27,366

Note 24D: Special Appropriations ('Recoverable GST exclusive')

Authority	Type	Purpose	Appropriation applied	
			2015 \$'000	2014 \$'000
Public Governance, Performance and Accountability Act 2013 s.77, Administered	Refund	To provide an appropriation where an Act or other law requires or permits the repayment of an amount received by the Commonwealth and the Finance Minister is satisfied that, apart from this section, there is no specific appropriation for the repayment.	12	72

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 25: Special Accounts

	Services for Other Entities and Trust Moneys ^{1,2}	
	2015 \$'000	2014 \$'000
Administered		
Balance carried forward from previous period	54	54
Increases		
Other receipts	-	-
Total increase	-	-
Available for payments	54	54
Decreases		
Payments made	-	-
Total decrease	-	-
Total balance to be carried to the next period	54	54

1. Establishing Instrument: *Public Governance, Performance and Accountability Act 2013; s78*

2. The purpose of the account is:

- (a) amounts to be held on trust or otherwise for the benefit of a person other than the Commonwealth;
- (b) amounts received in the course of the performance of functions that relate to the purposes of the Services for Other Entities and Trust Moneys - Australian Competition and Consumer Commission Special Account;
- (c) amounts received from any person for the purposes of the Services for Other Entities and Trust Moneys - Australian Competition and Consumer Commission Special Account; and
- (d) amounts to be held on trust or otherwise for the benefit of a person other than the Commonwealth.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 26: Reporting of Outcomes

The Commission attributes its outcome between its two output groups on the basis of identifiable actual costs. Shared costs incurred with respect to these output groups are apportioned according to these resulting actual costs. This basis of attribution is consistent with that used for the 2014-15 budget.

Note 26A: Net Cost of Outcome Delivery

	Outcome 1		Total	
	2015	2014	2015	2014
	\$'000	\$'000	\$'000	\$'000
Departmental				
Expenses	(176,532)	(183,102)	(176,532)	(183,102)
Own-source Income	2,712	1,161	2,712	1,161
Administered				
Expenses	(13,262)	(2,874)	(13,262)	(2,874)
Own-source Income	34,050	32,345	34,050	32,345
Net cost/(contribution) of outcome delivery	(153,032)	(152,470)	(153,032)	(152,470)

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 27: Departmental Budgetary Reports and Explanations of Major Variances

The following tables provide a comparison of the original budget as presented in the 2014-15 Portfolio Budget Statements (PBS) to the 2014-15 final outcome as presented in accordance with Australian Accounting Standards for the entity. The Budget is not audited.

Note 27A: Departmental Budgetary Reports

Statement of Comprehensive Income
for the period ended 30 June 2015

	Actual	Budget estimate	
		Original ¹	Variance ²
	2015	2015	2015
	\$'000	\$'000	\$'000
NET COST OF SERVICES			
Expenses			
Employee benefits	97,372	102,414	(5,042)
Suppliers	72,470	66,381	6,089
Depreciation and amortisation	5,779	5,705	74
Finance costs	88	-	88
Write-down and impairment of assets	673	-	673
Other expenses	150	-	150
Total expenses	176,532	174,500	2,032
Own-Source Income			
Own-source revenue			
Sale of goods and rendering of services	1,189	1,250	(61)
Other revenue	1,432	-	1,432
Total own-source revenue	2,621	1,250	1,371
Gains			
Gains from sale of assets	-	-	-
Other gains	91	75	16
Total gains	91	75	16
Total own-source income	2,712	1,325	1,387
Net cost of services	173,820	173,175	645
Revenue from Government	167,446	167,470	(24)
Surplus/(Deficit) attributable to the Australian Government	(6,374)	(5,705)	(669)
OTHER COMPREHENSIVE INCOME			
Items not subject to subsequent reclassification to net cost of services			
Changes in asset revaluation surplus	247	-	247
Total other comprehensive income	247	-	247
Total comprehensive income	(6,127)	(5,705)	(422)

1. The Commission's original budgeted financial statement that was first presented to parliament in respect of the reporting period (i.e. from the entity's 2014-15 Portfolio Budget Statements (PBS)).
2. Between the actual and original budgeted amounts for 2014-15. Explanations of major variances are provided further below.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 27A: Departmental Budgetary Reports (cont)

Statement of Financial Position
for the period ended 30 June 2015

	Actual	Budget estimate	
	2015	Original ¹	Variance ²
	\$'000	2015	2015
		\$'000	\$'000
ASSETS			
Financial assets			
Cash and cash equivalents	1,083	4,592	(3,509)
Trade and other receivables	36,576	19,201	17,375
Other financial assets	-	-	-
Total financial assets	37,659	23,793	13,866
Non-financial assets			
Land and buildings	12,643	12,759	(116)
Property, plant and equipment	5,020	4,819	201
Intangibles	3,839	4,422	(583)
Inventories	-	22	(22)
Other non-financial assets	1,038	759	279
Total non-financial assets	22,540	22,781	(241)
Total assets	60,199	46,574	13,625
LIABILITIES			
Payables			
Suppliers	8,644	5,092	3,552
Other payables	16,389	14,046	2,343
Total payables	25,033	19,138	5,895
Provisions			
Employee provisions	26,178	24,593	1,585
Other provisions	5,906	1,435	4,471
Total provisions	32,084	26,028	6,056
Total liabilities	57,117	45,166	11,951
Net assets	3,082	1,408	1,674
EQUITY			
Contributed equity	68,331	68,331	-
Reserves	3,966	3,733	233
Retained surplus/(accumulated deficit)	(69,215)	(70,656)	1,441
Total equity	3,082	1,408	1,674

1. The Commission's original budgeted financial statement that was first presented to parliament in respect of the reporting period (i.e. from the entity's 2014-15 Portfolio Budget Statements (PBS)).

2. Between the actual and original budgeted amounts for 2014-15. Explanations of major variances are provided further below.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Statement of Changes in Equity for not-for-profit Reporting Entities
for the period ended 30 June 2015

	Retained earnings						Asset revaluation surplus				Contributed equity/capital				Total equity			
	Actual		Budget estimate		Variance ²		Actual		Budget estimate		Variance ²		Actual		Budget estimate		Variance ²	
	2015	2015	2015	2015	2015	2015	2015	2015	2015	2015	2015	2015	2015	2015	2015	2015	2015	2015
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Opening balance	(62,841)	(64,951)	2,110	3,719	3,733	(14)	63,618	63,618	-	4,496	2,400	2,096						
Balance carried forward from previous period																		
Adjustment for errors																		
Adjusted opening balance	(62,841)	(64,951)	2,110	3,719	3,733	(14)	63,618	63,618	-	4,496	2,400	2,096						
Comprehensive income	(6,374)	(5,705)	(669)															
Surplus/(Deficit) for the period																		
Other comprehensive income																		
Total comprehensive income	(6,374)	(5,705)	(669)	247	247	247	-	(6,127)	-	247	(6,127)	(422)						
Transactions with owners																		
Contributions by owners																		
Equity injection - Appropriations																		
Departmental capital budget																		
Total transactions with owners	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Closing balance as at 30 June	(69,215)	(70,656)	1,441	3,966	3,733	233	68,331	68,331	-	3,082	1,408	1,674						

1. The Commission's original budgeted financial statement that was first presented to parliament in respect of the reporting period (i.e. from the entity's 2014-15 Portfolio Budget Statements (PBS)).

2. Between the actual and original budgeted amounts for 2014-15. Explanations of major variances are provided further below.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Cash Flow Statement for not-for-profit Reporting Entities
for the period ended 30 June 2015

	Actual	Budget estimate	
	2015	Original ¹	Variance ²
	\$'000	\$'000	2015
			\$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations	165,238	167,470	(2,232)
Sale of goods and rendering of services	1,621	1,250	371
Net GST received	6,456	-	6,456
Other	3,804	-	3,804
Total cash received	177,119	168,720	8,399
Cash used			
Employees	(94,685)	(105,869)	11,184
Suppliers	(77,515)	(64,223)	(13,292)
Section 74 receipts transferred to OPA	(5,458)	-	(5,458)
Other	(150)	-	(150)
Total cash used	(177,808)	(170,092)	(7,716)
Net cash from/(used by) operating activities	(689)	(1,372)	683
INVESTING ACTIVITIES			
Cash used			
Purchase of property, plant & equipment	(3,178)	(3,713)	535
Total cash used	(3,178)	(3,713)	535
Net cash from/(used by) investing activities	(3,178)	(3,713)	535
FINANCING ACTIVITIES			
Cash received			
Contributed equity	3,009	4,713	(1,704)
Total cash received	3,009	4,713	(1,704)
Net cash from/(used by) financing activities	3,009	4,713	(1,704)
Net increase/(decrease) in cash held	(858)	(372)	(486)
Cash and cash equivalents at the beginning of the reporting period	1,941	4,964	(3,023)
Cash and cash equivalents at the end of the reporting period	1,083	4,592	(3,509)

1. The Commission's original budgeted financial statement that was first presented to parliament in respect of the reporting period (i.e. from the entity's 2014-15 Portfolio Budget Statements (PBS)).

2. Between the actual and original budgeted amounts for 2010. Explanations of major variances are provided further below.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 27B: Departmental Major Budget Variances for 2015

Explanations of major variances	Affected line items (and statement)
<p><u>Employees expenses and payments</u></p> <p>The reduction of staff following the 2013-14 redundancies and additional natural attrition greatly exceeded assumptions in the original budget. Recruitment activities were also hampered by the Australian Public Service recruitment restrictions imposed during the financial year.</p>	<p><i>Employee benefits (Statement of Comprehensive Income)</i> <i>Operating cash used - Employees (Cashflow Statement)</i></p>
<p><u>Supplier expenses, Supplier payments and onerous lease provision.</u></p> <p>The original budget excludes the impact of the initial onerous lease provision in 2013-14 and revaluation in 2014-15. These items were unexpected accounting adjustments that were recorded subsequent to the original budget. Further to this, the Australian Public Service restriction on recruitment activities resulted in the engagement of contractors to complete operational activities.</p>	<p><i>Suppliers (Statement of Comprehensive Income)</i> <i>Operating cash used - Suppliers (Cashflow Statement)</i> <i>Other provisions (Statement of Financial Position)</i></p>
<p><u>Own source revenue</u></p> <p>The variance increase is largely attributed to revenue generated from new services rendered during 2014-15. These services include holding an inquiry into the east coast wholesale gas market, and building the capacity of Association of South-East Asian Nations (ASEAN) Member States to combat anti-competitive activities in their markets through mentoring, workshops, expert placements and research work.</p>	<p><i>Other revenue (Statement of Comprehensive Income)</i> <i>Operating Cash received - Other (Cashflow Statement)</i></p>
<p><u>Write-down and impairment of assets</u></p> <p>This primarily relates to an unbudgeted impairment loss of plant and equipment assets following a revaluation of the Commission's fixed assets.</p>	<p><i>Write-down and impairment of assets (Statement of Comprehensive Income)</i> <i>Property, plant and Equipment (Statement of Financial Position)</i></p>
<p><u>Other comprehensive income and makegood provision</u></p> <p>This variance is caused by an unbudgeted upwards revaluation of leasehold improvement assets, offset by a decrease resulting from the revaluation of the makegood provision.</p>	<p><i>Changes in asset revaluation surplus (Statement of Comprehensive Income)</i> <i>Leasehold improvements (Statement of Financial Position)</i> <i>Other provisions (Statement of Financial Position)</i> <i>Reserves (Statement of Financial Position)</i> <i>Other comprehensive income (Statement of Changes in Equity)</i></p>
<p><u>Cash and cash equivalents</u></p> <p>The cash at bank float assumptions for the budget exceeded actual working capital requirements.</p>	<p><i>Cash and cash equivalents (Statement of Financial Position)</i> <i>Cash and cash equivalents at the beginning of the reporting period (Cashflow Statement)</i></p>
<p><u>Trade and Other Receivables</u></p> <p>The original budget assumed a break even position at 30 June 2015 with the balance in receivables largely representing the Litigation Contingency Fund. A prior year surplus generated from underspends in 2013-14, unspent equity injections in 2014-15, prepaid funding for the delivery of new services and higher payable accruals than budgeted due to timing differences in payments were the largest contributors to the increase in the variance.</p>	<p><i>Trade and other receivables (Statement of Financial Position)</i> <i>Other Payables (Statement of Financial Position)</i> <i>Supplier Payables (Statement of Financial Position)</i> <i>Financing cash received - Contributed Equity (Cashflow Statement)</i></p>

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 27B: Departmental Major Budget Variances for 2015 (cont)

Explanations of major variances	Affected line items (and statement)
<p><u>Supplier payables</u> Non-legal accruals finished higher than expected due to a combination of once-off operational work involving consultants on in-house applications and reliance on contractors due to employment restrictions imposed across the Australian Public Service.</p>	<p><i>Supplier Payables (Statement of Financial Position)</i></p>
<p><u>Cash received and Other Payables</u> New services rendered after the budget was established was the primary cause of the increase in receipts. The funding for these services has been received in advance, therefore generating unearned revenue for the Commission until the expenditure is incurred.</p>	<p><i>Other Payables (Statement of Financial Position)</i> <i>Operating cash received - Other (Cashflow Statement)</i></p>
<p><u>Goods and Services Tax and Supplier Payments</u> Own source revenue receipts and supplier payments are presented without GST in the budget. Conversely, the actuals have been grossed up for GST in accordance with accounting requirements. This accounts for approximately half of the supplier payments variance. Accordingly, the Net GST received from Business Activity Statement refunds has also not been budgeted.</p>	<p><i>Operating cash received - Net GST received (Cashflow Statement)</i> <i>Operating cash used- Supplier payments (Cashflow Statement)</i></p>
<p><u>Section 74 Transfers to the OPA</u> The budget did not account for movements in cash for Section 74 transfers to the OPA.</p>	<p><i>Operating cash received - Section 74 Transfers to the OPA (Cashflow Statement)</i></p>
<p><u>Contributed Equity</u> The budget assumes that all contributed equity funding will be spent within the financial year. The unspent funding relates to the restoration of ACCC's balance sheet provisions following funding agreements from Portfolio Additional Estimates 2013-14, and slight delays in the finalisation of capital project work.</p>	<p><i>Appropriation Receivable (Statement of Comprehensive Income)</i> <i>Leasehold Improvements (Statement of Financial Position)</i> <i>Purchase of Property, Plant and Equipment (Cashflow Statement)</i> <i>Financing cash received - Contributed Equity (Cashflow Statement)</i></p>

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Note 27C: Administered Budgetary Reports

Administered Schedule of Comprehensive Income for not-for-profit Reporting Entities
for the period ended 30 June 2015

	Actual	Budget estimate	
		Original ¹	Variance ²
	2015	2015	2015
	\$'000	\$'000	\$'000
NET COST OF SERVICES			
Expenses			
Write-down and impairment of assets	2,262	-	2,262
Refund of fees and fines	11,000	-	11,000
Total expenses	13,262	-	13,262
Income			
Revenue			
Non-taxation revenue			
Fees and fines	34,050	40,000	(5,950)
Total non-taxation revenue	34,050	40,000	(5,950)
Gains			
Other gains	-	-	-
Total gains	-	-	-
Total income	34,050	40,000	(5,950)
Net cost of/(contribution by) services	(20,788)	(40,000)	19,212
Surplus on continuing operations	20,788	40,000	(19,212)
OTHER COMPREHENSIVE INCOME			
Total other comprehensive income	-	-	-
Total comprehensive income	20,788	40,000	(19,212)

1. The entity's original budgeted financial statement that was first presented to parliament in respect of the reporting period (i.e. from the entity's 2014-15 Portfolio Budget Statements (PBS)).

2. Between the actual and original budgeted amounts for 2014/15. Explanations of major variances are provided further below.

AUSTRALIAN COMPETITION & CONSUMER COMMISSION
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the period ended 30 June 2015

Statement of Financial Position for not-for-profit Reporting Entities
for the period ended 30 June 2015

	Actual	Budget estimate	
		Original ¹	Variance ²
	2015	2015	2015
	\$'000	\$'000	\$'000
ASSETS			
Financial assets			
Cash and cash equivalents	-	18	(18)
Trade and other receivables	5,252	12,577	(7,325)
Total financial assets	5,252	12,595	(7,343)
Total assets administered on behalf of the Government	5,252	12,595	(7,343)
LIABILITIES			
Payables			
Suppliers	11,000	-	11,000
Total payables	11,000	-	11,000
Total liabilities administered on behalf of the Government	11,000	-	11,000
Net assets	(5,748)	12,595	(18,343)

1. The entity's original budgeted financial statement that was first presented to parliament in respect of the reporting period (i.e. from the entity's 2014-15 Portfolio Budget Statements (PBS)).

2. Between the actual and original budgeted amounts for 2014/15. Explanations of major variances are provided further below.

Note 27D: Administered Major Budget Variances for 2015

Explanations of major variances	Affected line items (and statement)
<p><u>Refund of fees and fines</u></p> <p>This relates to a court case that was lost on appeal in August 2015 and penalties collected in 2013-14 were to be refunded to the defendant. This qualified for recognition in 2014-15 under AASB 110 Events after the Reporting period.</p>	<p><i>Refund of fees and fines (Statement of Comprehensive Income),</i> <i>Payables - Suppliers (Statement of Financial Position)</i></p>
<p><u>Fees and Fines</u></p> <p>The budget estimate of \$40m was based on assessing the financial results of previous years. Fees and fines are difficult to estimate as they are influenced by a number of factors such as duration and complexity of legal matters, the amount of penalties imposed, the number of notifications and authorisations received, anti-competitive situations in the market etc.</p>	<p><i>Fees and fines (Statement of Comprehensive Income)</i></p>
<p><u>Trade and other receivables</u></p> <p>The trade and other receivables balances are estimated on financial results of previous years. A conservative balance was adopted based on the 2012-13 result. Receivables are difficult to estimate as a debtor's ability to pay is mostly influenced by the financial solvency of the business, while penalties collected from larger companies with greater financial reserves have quicker turnaround times in collections.</p>	<p><i>Trade and other receivables (Statement of Financial Position)</i></p>

Part 6

Appendixes

Contents

Appendix 1: Agency and outcome resource statements	320
Appendix 2: Staffing	322
Appendix 3: Work health and safety	324
Appendix 4: Advertising and market research	326
Appendix 5: Ecologically sustainable development	327
Appendix 6: Competition and Consumer Act 2010 and other legislation	329
Appendix 7: Information required under the Competition and Consumer Act 2010	336
Appendix 8: Undertakings accepted and infringement notices paid in 2014–15	342
Appendix 9: Litigation matters, review proceedings and tribunal proceedings in 2014–15	353
Appendix 10: Draft and final decisions in relation to regulated industries in 2014–15	363
Appendix 11: Major regulatory reports and reviews in 2014–15	370
Appendix 12: Mergers in 2014–15—major assessments	372
Appendix 13: Significant authorisation and notification decisions in 2014–15	373
Appendix 14: Correction of material errors in previous annual reports	374
Glossary and abbreviations	375
Compliance index	378

Appendix 1: Agency and outcome resource statements

Table A1.1: Agency resource statement, 2014-15

		Actual available appropriations for 2014-15 \$'000	Payments made in 2014-15 \$'000	Balance remaining \$'000
		(a)	(b)	(a-b)
Ordinary annual services¹				
Departmental appropriation ²		189 691	168 109	21 582
Total ordinary annual services	A	189 691	168 109	21 582
Other services³				
Departmental non-operating				
Equity injections		15 292	996	14 296
Total other services	B	15 292	996	14 296
Special accounts				
Opening balance		54	-	54
Non-appropriation receipts to special accounts		-	-	-
Total special account	C	54	-	54
Total net resourcing and payments for ACCC (A+B+C)		205 037	169 105	35 932

1 Appropriation Bill (No. 1) 2014-15, prior year departmental appropriation and s. 74 retained revenue receipts.

2 Includes an amount of \$2.013 million in 2014-15 for the Departmental Capital Budget.

3 *Appropriation Act (No. 2) 2014-15 and Appropriation Act (No. 2) 2013-14.*

Table A1.2: Budget expenses and resources for Outcome 1 2014–15

Outcome 1: Lawful competition, consumer protection, and regulated national infrastructure markets and services through regulation, including enforcement, education, price monitoring and determining the terms of access to infrastructure services.	Budget expenses 2014–15 \$'000	Actual expenses 2014–15 \$'000	Variation 2014–15 \$'000
	(a)	(b)	(a–b)
Program 1.1: Australian Competition and Consumer Commission			
Departmental expenses			
Departmental appropriation ¹	134 494	135 058	(564)
Expenses not requiring appropriation in the Budget year	4 938	4 489	449
Total for Program 1.1	139 432	139 547	(115)
Program 1.2: Australian Energy Regulator (AER)			
Departmental expenses			
Departmental appropriation ¹	34 226	35 009	(783)
Expenses not requiring appropriation in the Budget year	842	1 290	(448)
Total for Program 1.2	35 068	36 299	(1 231)
Outcome 1 Totals by appropriation type			
Departmental expenses			
Departmental appropriation ¹	168 720	170 067	(1 347)
Expenses not requiring appropriation in the Budget year	5 780	5 779	1
Total expenses for Outcome 1	174 500	175 846	(1 346)

1 Departmental appropriation combines Ordinary annual services (Appropriation Bill No. 1) and s. 74 retained revenue receipts.

Table A1.3: Average staffing level

	2013–14	2014–15
Average staffing level (number)	802	735

Appendix 2: Staffing

Staffing

Table A2.1 and table A2.2 provide details of the ACCC/AER staffing complement in 2014–15.

Table A2.1: APS staff employed by classification and location (at 30 June 2015)

Actual Classification	Adelaide	Brisbane	Canberra	Darwin	Hobart	Melbourne	Perth	Sydney	Townsville	Total
POH	1		4			2		2		9
SESB3			2							2
SESB2			6			3		2		11
SESB1		4	12			14	2	3		35
EL2	9	7	48	2		72	2	22		162
EL1	13	11	56		1	85	4	23	1	194
APS6	9	10	53	2	1	69	6	16	1	167
APS5	8	12	54	1	4	40	5	17		141
APS4	1	2	23	1		15	3	12	1	58
APS3	1	2	14	1		5		1	1	25
APS2										0
APS1			1			2		2		5
GRAD		1	2			3		3		9
Total	42	49	275	7	6	310	22	103	4	818

Table A2.2: APS staff employed by gender and location (at 30 June 2015)

	Adelaide	Brisbane	Canberra	Darwin	Hobart	Melbourne	Perth	Sydney	Townsville	Total
Ongoing										
Female full-time	16	22	93	6		112	8	40	1	298
Male full-time	22	16	104	1	3	133	10	35	1	325
Female part-time	2	10	37		2	34	2	12	1	100
Male part-time	1		1			10		3		15
Non-ongoing										
Female full-time		1	20			7	1	4	1	34
Male full-time			12		1	9	1	3		26
Female part-time			3			2		2		7
Male part-time			1			1		2		4
Public Office Holder										
Female full-time	1		2			1		1		5
Male full-time			2			1		1		4
Total	42	49	275	7	6	310	22	103	4	818

Appendix 3: Work health and safety

Work health and safety management

The ACCC has continued to enhance HR policies, guidelines and practices to meet the requirements of the *Work Health and Safety Act 2011* (Cth) and the Work Health and Safety Regulations 2011 (Cth).

In 2014–15, this included the development of a Workplace Health and Safety Action plan, Smoke-free Workplace Policy and Allergen Management Guidelines.

Health and safety activities

The ACCC continued its efforts to improve health and wellbeing outcomes for its workers during 2014–15. These included:

- activities to mark Mental Health Week and R U OK? Day
- Influenza Vaccination Program: the 2014–15 program was highly successful with 49 per cent of staff participating in the program.
- Workplace Contact Officer Network: as part of the ACCC's commitment to eradicating bullying and harassment within the workplace, Workplace Contact Officers continue to be represented in each of the ACCC's offices
- Employee Assistance Program: the ACCC continued to provide a free counselling service for employees and their immediate families, through a renowned corporate counselling organisation
- Healthy Lifestyle Reimbursement: the healthy lifestyle reimbursement scheme entered its third year, promoting healthy lifestyle choices among staff. In 2014–15, approximately 80 per cent of employees made a claim up to the limit of just under \$300
- ACCC and AER Ally Network: the ACCC Ally Network continues to promote a discrimination-free and diverse workplace for staff regardless of their sexual orientation.

Health and safety outcomes

Comcare premiums

The ACCC's Comcare premium for 2014–15 was set at 0.87 per cent of payroll (ex GST). This rate compares favourably to the all agencies combined rate (ex GST) of 1.93 per cent.

Compensation claims

There were four new compensation claims accepted by Comcare from the ACCC during 2014–15. The ACCC had five open compensation claims at the end of the 2014–15 financial year.

Non-compensable cases

The ACCC supports employees suffering from physical and psychological injuries or illnesses. The ACCC provided assistance to five employees with non-compensable physical and psychological injuries or illnesses during 2014–15.

Incident statistics

There were 23 incidents reported to the ACCC in 2014–15.

Investigations, directions and notices

The ACCC received no notices under the *Work Health and Safety Act 2011*, and did not conduct any investigations during 2014–15.

Appendix 4: Advertising and market research

Under s. 311A of the *Commonwealth Electoral Act 1918*, the ACCC must report annually on its use of advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising agencies.

The reporting requirement seeks information on payments of more than \$12 400 GST inclusive, that the ACCC made to such agencies in 2014–15. Payments over this threshold are listed in table A4.1.

Table A4.1: Advertising and market research of more than \$12 400 2014–15

Date	Description of advertising and market research services	Advertising and market research firm	Amount \$
November 2014 to June 2015	ACCC Consumer and Small Business survey	ORC Australia Pty Ltd	186 190
March 2015 to May 2015	Consumer survey in relation to private health insurance	Colmar Brunton	50 000
April to June 2015	Online advertising promoting the ACCC's Small Business Information Network (free email update service)	Mitchells Adcorp Alliance	38 500
June 2015	Online and radio advertising for the Infinity cable recall education campaign	Mitchells Adcorp Alliance	103 051

Appendix 5: Ecologically sustainable development

How the ACCC's activities and administration of legislation accord with principles of ecologically sustainable development

The ACCC administers legislation that ensures lawful competition, consumer protection, and regulated national infrastructure markets and services. At all times, the ACCC pursues its outcomes and objectives in a manner that provides the maximum benefit to the maximum number of consumers with the least impact on resources and the environment.

How the ACCC's outcome contributes to ecologically sustainable development

In achieving its outcome, the ACCC employs decision-making which, in line with s. 3A of the *Environment Protection and Biodiversity Conservation Act 1999*, factors in the economic, environmental, social and equitable considerations over both the short and long term.

ACCC activities that affect the environment

To ensure the ACCC is able to effectively administer legislation and regulated national infrastructure markets and services, it has established offices at nine locations around Australia. The ACCC's work aims to foster competitiveness and fairness, leading to more efficient and sustainable markets. The ACCC operates in line with the Energy Efficiency in Government Operations Policy (EEGO) and ICT Sustainability Plan 2010–15, ensuring it remains committed to environmental sustainability and performance.

Measures taken to minimise the effect of activities on the environment

The ACCC is committed to reducing the environmental impact of its activities in a range of areas, including:

Property

- purchasing 10 per cent green electricity for the Canberra head office
- optimising environmental opportunities from refurbishments and new building projects
- replacing halogen lighting with efficient, low energy LED lighting when opportunities arise
- installing programmable office lighting including motion sensors.

Information technology

- retaining main servers on offsite location, reducing energy consumption
- using power-saving modes for ICT equipment when not in use
- using LCD computer screens
- increasing its use of ISO 14001 accredited printers for external printing services

- reducing printer numbers and improving printing efficiency in accordance with government requirements
- using duplex printing and photocopying as a default setting on all printers and multi-function devices.

Travel

- using information and communication technology as an alternative to business travel
- servicing vehicles in accordance with manufacturers' specifications
- using E10 fuels for fleet vehicles where possible.

Workplace efficiencies

- placing emphasis on electronic records and electronic working arrangements, including reviewing lengthy reports and papers on line rather than printing on paper
- promoting access to ACCC publications electronically rather than in print.

Purchasing and procurement

- purchasing 100 per cent recycled content copy paper
- using recycled toner cartridges where possible
- procuring office equipment with low energy consumption and 65 per cent recycled content packaging
- procuring environmentally friendly toilet consumables and cleaning products.

Waste management

- improving its waste segregation practices including paper, co-mingled recycling, general waste, e-waste and in some offices organic waste
- recycling paper and cardboard products, including pulping classified waste and providing use-again office envelopes
- disposing of toner cartridges through a recycling outlet
- disposing of mobile phones and batteries through a recycling outlet.

Information and education

- establishing an environmental inbox for staff to submit ideas and encouraging staff to help identify/contribute to organisational environmental and sustainable initiatives
- providing staff with quarterly environmental reports highlighting targets achieved
- collaborating regularly with building management to identify initiatives and participate in environmental activities such as Earth Hour.

Mechanisms for reviewing and increasing the effectiveness of measures

The ACCC environmental policy puts in place strategies towards better environmental and sustainable practices. The ACCC utilises a process of informal, continuous review of the various measures it employs to reduce the environmental impact of its activities.

Where further efficiencies are identified in the course of business, the ACCC endeavours to put in place the measures required to realise these efficiencies. All of the above is done in accordance with both the applicable funding and environmental guidelines available to the ACCC.

Appendix 6: Competition and Consumer Act 2010 and other legislation

Competition and Consumer Act 2010

Key legislation

Airports Act 1996 (Cth)

Australian Postal Corporation Act 1989 (Cth)

Competition and Consumer Act 2010 (Cth)

National Electricity Law and Rules

National Gas Law and Rules

National Energy Retail Law and Rules

Telecommunications Act 1997 (Cth)

Water Act 2007 (Cth)

Lawful competition and informed markets

Table A6.1: Parts of the *Competition and Consumer Act 2010* dealing with competition

IV	Cartel conduct: price fixing; output restrictions; bid rigging; allocating customers, suppliers or territories Other anti-competitive conduct: boycotts; agreements substantially lessening competition; anti-competitive disclosure of pricing and other information; misuse of market power; exclusive dealing; resale price maintenance; mergers substantially lessening competition
VII	Authorisations and notifications
XIA	The Competition Code

Enforcement

The ACCC investigates cartel and other types of anti-competitive conduct—which are illegal for all businesses in Australia.

The ACCC will refer matters involving criminal cartel offences to the Commonwealth Director of Public Prosecutions for possible criminal prosecution.

For individuals, the cartel offence is punishable by imprisonment of up to 10 years and/or fines up to \$340 000 per contravention. Corporations found guilty of a cartel offence may be fined up to \$10 million, three times the value of the illegal benefit or, where the benefit cannot be calculated, 10 per cent of the corporate group's annual turnover (whichever is the greater).

In relation to civil cartel prohibitions and other forms of anti-competitive conduct, the ACCC may initiate court action for breaches of the *Competition and Consumer Act 2010*.

To enforce the civil provisions of the *Competition and Consumer Act 2010* relating to anti-competitive conduct, the ACCC can seek:

- declarations of contraventions
- findings of facts
- injunctions
- damages and compensation
- community service orders
- probation orders
- divestiture orders
- disqualification of a person from managing corporations
- adverse publicity orders
- corrective advertising, public notices and disclosure
- penalties of up to \$10 million, three times the value of the illegal benefit or, where the benefit cannot be calculated, 10 per cent of the corporate group's annual turnover (whichever is the greater) for companies; and \$500 000 for individuals.

Fair trading and consumer protection

Table A6.2: Parts of the *Competition and Consumer Act 2010* (including the Australian Consumer Law) dealing with fair trading and consumer protection

Competition and Consumer Act 2010

IVB	Industry codes of conduct—the franchising, horticulture, oil and unit pricing codes are mandatory codes prescribed under Part IVB
-----	---

Australian Consumer Law—Schedule 2 to the *Competition and Consumer Act 2010*

Chapter 2	General protections: misleading or deceptive conduct; unconscionable conduct; unfair contract terms
-----------	---

Chapter 3	Specific protections: unfair practices: unsolicited supplies; pyramid selling; pricing; consumer guarantees; unsolicited consumer agreements; lay-by agreements; product safety and information
-----------	---

Chapter 4	Criminal conduct relating to fair trading and consumer protection
-----------	---

Enforcement

To enforce the civil provisions of the *Competition and Consumer Act 2010* (including the Australian Consumer Law) relating to fair trading and consumer protection, the ACCC can seek:

- declarations of contraventions
- findings of facts
- injunctions
- damages and compensation
- community service orders
- probation orders
- disqualification of a person from managing corporations
- adverse publicity orders
- corrective advertising, public notices and disclosure

- penalties of up to \$1.1 million for companies and \$220 000 for individuals, per contravention.

Infrastructure services and markets where competition is limited

Table A6.3: Parts of the *Competition and Consumer Act 2010* dealing with regulated industries and prices surveillance

IIIA	Access to the services of essential national infrastructure facilities such as rail tracks and grain port terminals
VIIA	Price monitoring and surveillance in relation to industries or businesses as directed by the Australian Government
X	Limited exemptions for anti-competitive conduct in relation to international liner cargo shipping
XIB	Anti-competitive conduct in telecommunications
XIC	Access to services for telecommunications

Regulation

The ACCC or AER have regulatory responsibilities in relation to a number of key infrastructure services in the economy, including energy, telecommunications, rail, water, fuel, wheat, postal services, ports and airports. As the infrastructure in each of these sectors is generally provided by one or a small number of suppliers, regulation by the ACCC/AER will promote the economically efficient operation, use and investment in Australia's key infrastructure. The effect of competition and investment will therefore enhance community welfare and promote the long-term interest of Australian consumers.

The ACCC/AER regulates access to monopoly infrastructure services and the price for that access.

The AER regulates the electricity and gas industries. The AER sets the amount of revenue that network businesses can recover from customers for using networks (electricity poles and wires and gas pipelines) that transport energy. The AER regulates the costs of electricity network services in eastern and southern Australia, and from 1 July 2015 commenced regulation of electricity networks in the Northern Territory. The AER regulates access prices for covered pipelines in jurisdictions other than Western Australia and Tasmania. The AER also monitors the wholesale electricity and gas markets to ensure suppliers comply with the National Electricity Law and Rules and the National Gas Law and Rules.

The AER also has monitoring and enforcement roles and functions under the National Energy Retail Law and the National Energy Retail Rules in the ACT, Tasmania, South Australia, New South Wales and from 1 July 2015, Queensland. These functions include authorising retailers to sell energy and administering the national retailer of last resort scheme aimed at protecting customers and the market in the event of a retail business failure.

Legislative amendments in 2014–15

Competition and consumer legislation

Amendments to Competition and Consumer Act 2010

Telecommunications Legislation Amendment (Deregulation) Act 2015—commenced 1 July 2015.

- This Act removes from the CCA the ACCC's monitoring and reporting obligations in relation to the adequacy of universal service providers. It also abolishes the Telecommunications Universal Service Management Agency.

Competition and Consumer Amendment (Industry Code Penalties) Act 2014—commenced 1 January 2015

- This Act amends the CCA by allowing for the introduction of civil penalty provisions in prescribed industry codes. It gives the ACCC the power to issue infringement notices (up to 50 penalty units) and the power to seek pecuniary penalties of 300 penalty units for breaches of a civil penalty provision of an industry code.

Omnibus Repeal Day (Autumn 2014) Act 2014—commenced 17 October 2014.

- In relation to the CCA, this Act seeks to streamline the reporting and information provision requirements for telecommunications providers. It requires carriers and carriage service providers to submit a quarterly report to the ACCC, which lists all contracts for the supply of declared services that were in force during the relevant quarter.

Clean Energy Legislation (Carbon Tax Repeal) Act 2014—commenced 18 July 2014.

- This Act introduces Part V to the CCA, which creates new prohibitions relating to carbon tax-related price exploitation and false or misleading representations following the repeal of the carbon tax. It also provides the ACCC with new powers to monitor prices in relation to the carbon tax repeal and issue infringement notices in relation to contraventions of the new Part V of the CCA.
- The Act also introduces certain obligations on entities that sell electricity or natural gas, or are bulk SGG importers that sell synthetic greenhouse gases, to explain and substantiate the impact the carbon tax repeal has had on the costs of their operations.

Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014—commenced 1 July 2014.

- This Act addresses the body corporate status of the ACCC and AER for the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*), so that for financial governance purposes, the ACCC and AER retain the same status as under the previous *Financial Management and Accountability Act 1997*.

Amendments to Competition and Consumer Regulations 2010

Competition and Consumer Amendment (Electronic Service of Documents and Other Measures) Regulation 2015—commenced 31 March 2015.

- This amendment sought to modernise the Competition and Consumer Regulations by allowing the ACCC to serve documents electronically in certain circumstances.

Competition and Consumer (Industry Codes—Food and Grocery) Regulation 2015—commenced 3 March 2015.

- This Regulation provides for the Food and Grocery Code of Conduct, a voluntary prescribed industry code for the food and grocery sector. The Code governs certain conduct by grocery retailers and wholesalers in their dealings with suppliers. It requires

retailers and wholesalers to act in good faith and requires all supply agreements to be in writing. It also has rules relating to unilateral or retrospective variation of grocery supply agreements, payments, termination of agreements, dispute resolution and a range of other matters.

- By July 2015, four retailers (ALDI, Coles Supermarkets Australia, Woolworths Limited and About Life Pty Ltd) have signed up to be bound by the Code.

Competition and Consumer (Industry Codes—Franchising) Regulation 2014—commenced 1 January 2015 (replacing the old Franchising Code).

- In summary, the Code provides for:
 - a general obligation of good faith,
 - civil penalties and infringement notices for a breach of certain provisions, and
 - provisions to facilitate the more effectively use of the ACCC's audit power.

Competition and Consumer Amendment (National Energy Laws) Regulation 2015—commenced July 2015, but will be rolled out progressively.

- The purposes of this Regulation is to support the implementation of the National Electricity Law in Northern Territory and the National Energy Retail Law in Queensland, as part of the reforms to their respective energy sectors.
- The Northern Territory seeks to apply the National Electricity Law in part from 1 July 2016, and in full from 1 July 2019. Transitional arrangements commenced on 1 July 2015. Queensland seeks to apply the National Energy Retail Law from 1 July 2015.

Telecommunications legislation

Amendments to telecommunications regulations

Determinations made under the *Telecommunications Act 1997*

Telecommunications (Carrier Licence Charges) Act 1997—Determination under paragraph 15(1)(b) No 1 of 2015—made 4 February 2015.

Telecommunications (Carrier Licence Charges) Act 1997—Determination under paragraph 15(1)(d) No 1 of 2015—made 3 March 2015.

Amendments to Record Keeping Rules

Revocation of the Bundled Services record keeping rules—July 2014

Remaking of the Access to Telstra Exchange Facilities record keeping rules—July 2014

Introduction of NBN Services in Operation record keeping rules—October 2014

Water legislation

Amendments to water legislation

Nil

Amendments to water regulations

Nil.

Water determinations

Water Efficiency Labelling and Standards (No 2) Amendment Determination 2015 (No. 1)—made 20 January 2015

Water Efficiency Labelling and Standards (Registration Fees) Amendment Determination 2015 (No 1)—made 20 January 2015.

Wheat legislation

Amendments to wheat legislation

- Repeal of the *Wheat Export Marketing Act 2008* (Cth)—30 September 2014.
- Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014 (Cth)—commenced 30 September 2014.

National Electricity Law and National Gas Law

Amendments to National Electricity Law, National Gas Law and National Energy Retail Law

Statutes Amendment (Energy Consumers Australia) Act 2014 (SA)—commenced 30 January 2015.

- This Act amends the National Electricity Law and National Gas Law to incorporate the new national consumer advocacy body, Energy Consumers Australia.

Amendments to National Electricity Law Regulations

National Electricity (South Australia) (Civil Penalty Provisions) Variation Regulations 2015—commenced 9 April 2015.

- This amends the civil penalty provisions under the National Electricity Regulations.

Amendments to National Electricity Law and National Gas Law Rules

National Electricity Rules

- Aligning TasNetworks' Regulatory Control Periods—commenced 9 April 2015.
- Improving Demand Side Participation Information Provided to AEMO by Registered Participants—commenced 26 March 2015.
- Governance Arrangements and Implementation of the Reliability Standard—commenced 26 March 2015.
- Connecting Embedded Generators under Chapter 5A—commenced 1 March 2015.
- Application of Incentive Scheme to Transmission Businesses—commenced 19 February 2015.
- Customer Access to Information about Their Energy Consumption—commenced 1 December 2014.
- Distribution Network Pricing Arrangements—commenced 1 December 2014.
- Connecting Embedded Generators—commenced 1 October 2014.
- Victorian Jurisdictional Derogation (Smelter Agreements)—commenced 1 August 2014.
- Extension of Call Notice Timing—commenced 1 July 2014.
- Minor Changes 2014—commenced 1 July 2014; 1 October 2014.

National Gas Rules

- Contingency Gas Evidentiary Changes—commenced 5 November 2015.
- Matched Allocation Process in the STTM—commenced 28 May 2015.
- Removal of Gas Bulletin Board emergency information page—commenced 7 May 2015.
- Removal of Force Majeure Provisions in the DWGM—commenced 4 May 2015.
- Setting the Opening Capital Base—commenced 2 October 2014.

- Minor Changes 2014—commenced 2 October 2014.

National Energy Retail Rules

- Retailer Price Variations in Market Retail Contracts—commenced 1 May 2015.

New standards commenced

Competition and Consumer Act 2010—Consumer Protection Notice No. 3 of 2014—Safety Standard: Child Restraint Systems for Use in Motor Vehicles—commenced September 2014.

- This notice updates the mandatory safety standard in relation to the supply of child restraints for use in motor vehicles. It covers requirements in relation to the design, construction, performance, marking, packaging, and user instructions of child restraints.
- Competition and Consumer (Corded Internal Window Coverings) Safety Standard 2014—commenced 1 January 2015.
- This safety standard sets out the mandatory installation and labelling requirements for corded internal window coverings in domestic dwellings.

Amendments to standards

- The mandatory standard for child restraint systems for use in motor vehicles was amended and came into effect on 19 September 2014.
- The amended mandatory standard for bean bags, [Consumer Goods \(Bean Bags\) Safety Standard 2014](#), will commence on 1 January 2016.

New ban orders

- No product safety ban orders were made during the 2014–15 year.

Appendix 7: Information required under the Competition and Consumer Act 2010

Section 171(2) reporting requirements

Section 51(1) of the *Competition and Consumer Act 2010* provides that conduct that would normally contravene the law may be permitted if it is specifically authorised under other Australian, state or territory legislation. Section 171(2) of the law requires this report to list all such laws.

Exceptions under Australian, state and territory legislation

Some Australian, state and territory Acts permit conduct that would normally contravene the *Competition and Consumer Act 2010*. Section 51(1) of the *Competition and Consumer Act 2010* provides that such conduct may be permitted if it is specifically authorised under those other Acts. Section 171(2) of the Act requires this report to list all such laws.

Below is a list of the legislation that allows such conduct or provides for regulations to be made authorising particular conduct. The list includes legislation which the ACCC has been notified of or has otherwise become aware of.

Commonwealth

Australian Postal Corporation Act 1989

Banking Act 1959

Competition and Consumer Act 2010 (ss. 173 and 151DA)

Customs Act 1901

Financial Sector (Business Transfer and Group Restructure) Act 1999

Insurance Act 1973

Life Insurance Act 1995

Liquid Fuel Emergency Act 1984

Payment Systems (Regulation) Act 1998

Road Safety Remuneration Act 2012

Stronger Futures in the Northern Territory Act 2012

Telecommunications Act 1997

Australian Capital Territory

Cemeteries and Crematoria Act 2003

Competition Policy Reform Act 1996

Financial Management Act 1996

Government Procurement Act 2001

Health Act 1993

Insurance Authority Act 2005

Racing Act 1999

Road Transport (Public Passenger Services) Act 2001

Territory Records Act 2002

New South Wales

Australian Jockey and Sydney Turf Clubs Merger Act 2010

Casino Control Regulation 2009

Coal Industry Act 2001

Competition Policy Reform (New South Wales) Act 1995

Electricity Generator Assets (Authorised Transactions) Act 2012

Gaming Machines Act 2001

Health Services Act 1997

Hunter Water Act 1991

Industrial Relations (Ethical Clothing Trades) Act 2001

Industrial Relations Act 1996

James Hardie Former Subsidiaries (Winding up and Administration) Act 2005

Liquor Act 2007

Major Events Act 2009

National Broadband Network Co-ordinator Act 2010

NSW Self Insurance Corporation Act 2004

Passenger Transport Act 2014

Racing Administration Act 1998

Rice Marketing Act 1983

Thoroughbred Racing Act 1996

Totalizator Act 1997

Northern Territory

Competition Policy Reform (Northern Territory) Act 1996

Consumer Affairs and Fair Trading Act 1990

Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice) Regulations 1996

Electricity Reform Act 2000

Environmental Protection (Beverage Containers and Plastic Bags) Act 2011

Liquor Act 1978

Water Supply and Sewerage Services Act 2000

Queensland

Competition Policy Reform (Queensland) Act 1996

Gladstone Power Station Agreement Act 1993

Racing Act 2002

Sugar Industry Act 1999

Transport Operations (Passenger Transport) Act 1994

South Australia

Authorised Betting Operations Act 2000

Authorised Betting Operations Regulations 2001

Cooper Basin (Ratification) Act 1975

Industries Development Act 1941

Competition Policy Reform (South Australia) Act 1996

Roxby Downs (Indenture Ratification) Act 1982

Tasmania

Competition Policy Reform (Tasmania) Act 1996

Electricity Reform Act 2012

Electricity Supply Industry Act 1995

Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995

Gaming Control Act 1993

Rail Company Act 2009

TOTE Tasmania (Sale) Act 2009

Water and Sewerage Corporation Act 2012

Victoria

Gambling and Liquor Legislation Amendment (Modernisation) Act 2014

Gambling Regulation Act 2003

Gas Industry (Residual Provisions) Act 1994

Health Services Act 1988

Legal Profession Uniform Law Application Act 2014

Liquor Control Reform Act 1998

Outworkers (Improved Protection) Act 2003

Owner Drivers and Forestry Contractors Act 2005

State Owned Enterprises Act 1992

Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Bill 2015

Western Australia

Competition Policy Reform (Western Australia) Act 1996

Electricity Corporations Act 2005

Electricity Industry (Wholesale Electricity Market) Regulations 2004

Electricity Industry Act 2004

Energy Coordination Act 1994

North West Gas Development (Woodside) Agreement Act 1979

Owners-Drivers (Contracts and Disputes) Act 2007

Section 171(3) reporting requirements

Time taken to make final determinations and decisions

Final determinations on access disputes under s. 44V

The ACCC made no determinations on access disputes under s. 44V in 2014–15.

Decisions on access undertaking applications and access code applications

Rail

During 2014–15 the ACCC reviewed a proposed variation to the Australian Rail Track Corporation's (ARTC's) Hunter Valley access undertaking relating to train configurations and associated access charges operating on the Hunter Valley rail network. ARTC sought to implement what it had determined to be the most efficient train configuration for the Hunter Valley as the reference service from which access charges for other train configurations would be derived depending upon their relative efficiency.

The ACCC conducted two rounds of consultation with stakeholders on the proposed variation. During these consultations it became clear that there remained divergent views within industry on the efficient train configuration and appropriate pricing and more time was needed for stakeholders to discuss these issues. On 7 November 2014, ARTC withdrew its proposed variation from the ACCC's consideration.

Wheat export marketing arrangements

During 2014–15 the ACCC made three decisions on access undertaking applications by port terminal service providers:

- On 4 September 2014 the ACCC consented to Emerald Logistics' (Emerald's) application to extend and vary its 2011 Port Terminal Services Access Undertaking. Emerald submitted this application on 15 July 2014. The ACCC's assessment included a draft decision to consent to the variation on 7 August 2014, with a two-week consultation period.
- On 25 September 2014 the ACCC consented to Co-operative Bulk Handling's (CBH's) application to extend and vary its 2011 Port Terminal Services Access Undertaking. CBH submitted this application on 8 September 2014. The ACCC's assessment included a one week consultation period.
- On 25 September 2014 the ACCC consented to GrainCorp Operations Ltd's (GrainCorp's) application to extend and vary its 2011 Port Terminal Services Access Undertaking. GrainCorp submitted this application on 13 September 2014. On the same day, GrainCorp withdraw its previous application to extend and vary the undertaking submitted on 28 July 2014. The ACCC had released draft decision and publicly consulted for two weeks on GrainCorp's previous application.

The chief purpose of these applications was to extend the operation of the existing access undertakings to ensure each port terminal service providers' compliance with the access test in the *Wheat Export Marketing Act 2008* (Cth) and provide certainty over access arrangements at the bulk grain ports in the event that the mandatory code did not commence on 30 September 2014. These access undertakings have since expired and access arrangements are governed by the mandatory code.

The time taken to make decisions on applications under ss. 44PA(1)

No decisions were made on applications under ss. 44PA(1).

Notices under ss. 155 and 155A

During 2014–15 the ACCC issued 303 notices under s. 155.

In previous reports the ACCC has provided breakdowns of which notices were issued under the *Competition and Consumer Act 2010* and which were issued under the *Trade Practices Act 1974* pursuant to the transitional provision contained in item 6 Schedule 7 to the *Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010* (Cth). As extremely few notices are issued for conduct prior to 1 January 2011, this breakdown is no longer relevant, indeed will soon be redundant, hence we are no longer providing it in the annual report.

The ACCC did not issue any notices under s. 155A during 2014–15.

General description of matters for which notices were given

Notices were issued in the course of investigations into conduct potentially in contravention of restrictive trade practices provisions, industry codes and consumer and small business protection provisions of the *Competition and Consumer Act 2010* and/or *Trade Practices Act 1974*.

Types of notices issued

- 155 notices under s. 155(1)(a) and (b) (requiring the addressee to furnish information in writing and to produce documents)
- 13 notices under s. 155(1)(a) (requiring the addressee to furnish information)
- 40 notices under s. 155(1)(b) (requiring the addressee to produce documents)
- 95 notices under s. 155(1)(c) (requiring the addressee to appear in person and give evidence).

Notices issued under s. 155AAA of the *Trade Practices Act 1974*

Seven notices were issued under s. 155AAA of the *Competition and Consumer Act 2010*.

Challenges to the validity of notices

On 20 November 2014 an appeal by Moses and Paul Obeid was dismissed by the Full Federal Court. This was an appeal from a decision of the Federal Court on 8 August 2014 in which Moses and Paul Obeid's application for declaratory relief under s. 163A(1)(aa) of the *Competition and Consumer Act 2010* was dismissed. They sought declaration that the notices issued to them under s. 155 were invalid. The relevant ACCC investigation follows the report produced by the NSW Independent Commission Against Corruption in Operation Jasper concerning a tender process conducted by the NSW Department of Trade and Industry in 2009.

Search warrants issued or signed

No search warrants were issued by a judge under s. 135Z or signed by a judge under s. 136.

Five search warrants were issued by a magistrate under s. 154X. No search warrants were signed by a magistrate under s. 154Y.

Each of the warrants referred to were issued in relation to alleged contraventions of ss. 44ZZRF, 44ZZRG, 44ZZRJ, 44ZZRK and s. 45 of the CCA (i.e. alleged cartel conduct and contracts, arrangements or understandings that restrict dealings or affect competition).

No proceedings were brought to challenge the validity of the warrants referred to above.

Entry to premises

There were no entries onto premises under s. 133B or 133C, Division 6 of Part XI. There was no entry to premises under Part XIX.

Complaints received by the Commission

Details on the number of complaints received by the ACCC in 2014–15, a summary of the kinds of complaints received and how they were dealt with and a general description of the major matters investigated are under Goal 2 on pages 116 to 120.

Substantiation notices issued

A number of substantiation notices were issued under s. 60FA by the ACCC in 2014–15 in relation to the ACCC's role in ensuring that savings were passed through following the repeal of the carbon tax. See page 75 for full details.

Audit notices issued

- 12 notices under s. 51ADD (requiring the addressee to give information or produce documents) were issued to franchisors in 2014–15 to check their level of compliance with the Franchising Code of Conduct.

Intervention in proceedings

The ACCC intervened in one matter in 2014–15. That matter was Director, Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union and anor. It was heard by the Full Court because of a direction of Allsop CJ under s. 20(1A) of the *Federal Court of Australia Act 1976* for it to be heard as such. The Commonwealth (through various Commonwealth agencies, including the ACCC) chose to intervene in the matter on the basis that the outcome of the proceedings could affect the process of imposing civil penalties on respondents by varying accepted practice around agreed penalties and submissions as to penalty. The Court concluded that the principles established for criminal proceedings in *Barbaro v The Queen*; *Zirilli v The Queen* applied equally in civil proceedings in which penalties are to be imposed. During the financial year 2014–15, the Commonwealth was granted special leave to appeal the interlocutory decision to the High Court of Australia, and the matter will be heard in late 2015.

Appendix 8: Undertakings accepted and infringement notices paid in 2014–15

Undertakings are available in full on the undertakings [public register](#) on the ACCC website.

Goal 1: Maintain and promote competition and remedy market failure

Competition and Consumer Act 2010 s. 87B undertakings

Competition and Consumer Act 2010

“To promote vigorous lawful competition and informed markets”

Merger Remedy

Hertz Global Holdings Inc.—acquisition of Dollar Thrifty Automotive Group Inc.

s. 87B Undertaking dated 29 July 2014

The ACCC did not oppose Hertz Global Holdings Inc’s (Hertz) acquisition of Dollar Thrifty Automotive Group Inc after accepting an undertaking from Hertz, Hertz Australia Pty Ltd and Dollar Thrifty Automotive Group Inc. The undertaking placed obligations on the parties that ensured Thrifty in Australia continued to compete at arm’s length with Hertz Australia and any Australian Hertz business.

Merger Remedy

GlaxoSmithKline plc—proposed acquisition of human vaccines business of Novartis AG

s. 87B Undertaking dated 29 January 2015

The ACCC did not oppose GlaxoSmithKline Plc (GSK)’s proposed acquisition of Novartis AG’s global human vaccine business after accepting an undertaking from GSK and its subsidiary GlaxoSmithKline Australia Pty Ltd. The undertaking resolved competition concerns in Australia by requiring that GSK comply with its commitments to the European Commission as they related to the divestiture of GSK’s global MenACWY vaccines business. The undertaking also required that the business be divested to an ACCC approved purchaser.

Merger Remedy

GSK Consumer Healthcare—proposed acquisition of GlaxoSmithKline plc and Novartis AG

s. 87B Undertaking dated 17 December 2014

The ACCC did not oppose Novartis AG (Novartis) and GSK’s proposal to enter into a global consumer healthcare joint venture after accepting an undertaking given by GlaxoSmithKline Plc (GSK) and Novartis Consumer Health Australasia Pty Ltd. The undertaking resolved competition concerns by requiring that Novartis divest its Australian nicotine replacement therapy products business.

Merger Remedy

Elgas Limited—proposed acquisition of Wesfarmers Kleenheat Gas Pty Ltd’s east coast LPG assets

s. 87B Undertakings dated 17 December 2014

The ACCC did not oppose Elgas Ltd’s (Elgas) proposed acquisition of Wesfarmers Kleenheat Gas Pty Ltd’s (Kleenheat) Australian east-coast liquefied petroleum gas (LPG) assets after accepting undertakings given by Elgas and Kleenheat.

The Elgas Undertaking required Elgas to divest parts of Kleenheat’s business in New South Wales and the Australian Capital Territory to Renegade Gas Pty Ltd, and in Victoria to Origin Energy LPG Ltd. The Kleenheat Undertaking required Kleenheat to carry out a number of supporting actions to enable the divestitures to occur.

Merger Remedy

Australian Amalgamated Terminals Pty Ltd (AAT)—proposed acquisition of Automotive and Ro-Ro Terminal at the Port of Fremantle

s. 87B Undertaking dated 22 April 2015

The ACCC did not oppose Amalgamated Terminals Pty Ltd’s (AAT) proposed acquisition of a long term lease for the automotive and RoRo terminal at the Port of Fremantle after accepting an undertaking from AAT.

The undertaking resolved competition concerns by requiring AAT to comply with open access conditions, protect terminal users’ confidential information, and comply with price and non-price dispute resolution processes. The undertaking comes into effect only if AAT is the successful bidder for the lease.

Merger Remedy

Victoria Quay International RoRo Terminal Pty Ltd—proposed acquisition of Automotive and Ro-Ro Terminal at the Port of Fremantle

s. 87B Undertaking dated 1 April 2015

The ACCC did not oppose Victoria Quay International RoRo Terminal Pty Ltd’s (VQIRT) proposed acquisition of a long term lease for the automotive and RoRo terminal at the Port of Fremantle after accepting an undertaking from VQIRT.

The undertaking resolved competition concerns by requiring VQIRT to comply with open access conditions, protect terminal users’ confidential information, and comply with price and non-price dispute resolution processes. The undertaking comes into effect only if VQIRT is the successful bidder for the lease.

Merger Remedy

Federation Centres and Novion Property Group—proposed merger

s. 87B Undertakings dated 21 May 2015

The ACCC did not oppose a proposal by Federation Centres (Federation) and Novion Property Group (Novion) to merge via a scheme of arrangement after accepting undertakings from Federation and Novion.

The undertakings resolved competition concerns by requiring that either Federation divest its 50 per cent interest in Karingal Hub Shopping Centre or Novion divest its 100 per cent interest in the Bayside Shopping Centre to an ACCC approved purchaser.

Merger Remedy

Zoetis Inc. and Pfizer Inc.—demerger affecting an existing undertaking

s. 87B Undertaking and variation to a s. 87B Undertaking dated 17 June 2015

In 2013, Pfizer Inc. (Pfizer) demerged its global animal health business into a separate unrelated company, Zoetis Inc. As a result of the demerger, Pfizer no longer had control over key assets it needed to fulfil its obligations in an undertaking accepted by the ACCC on 30 September 2009 to remedy competition concerns arising from Pfizer's acquisition of Wyeth Corp.

The ACCC accepted an undertaking from Zoetis which required Zoetis to assume all obligations in the Pfizer undertaking except for those obligations that have been fulfilled at the date of the Zoetis undertaking. The ACCC accepted a variation to the Pfizer undertaking which recognised Pfizer's continuing obligations following the transfer of principal obligations under the Pfizer undertaking to Zoetis as reflected in the Zoetis undertaking. The Pfizer variation also confirms that Pfizer will do everything within its power to ensure Zoetis has the assets, knowledge, information and resources it requires to discharge its obligations under the Zoetis undertaking.

Anti-competitive agreements

Mobil Oil Australia Pty Limited

s. 87B undertaking dated 19 August 2014

The ACCC accepted an undertaking from Mobil Oil Australia Pty Ltd (Mobil), in which Mobil agrees that it will not subscribe to the retail petrol price information exchange service supplied by Informed Sources (Australia) Pty Ltd (the Informed Sources service) for the next five years.

Mobil has also undertaken not to subscribe to any similar electronic retail petrol price information exchange services where subscribers:

- can determine that other subscribers will have access to the price information they provide to the service
 - have access to the price information of other subscribers under the condition that they provide their own price information.
-

Exclusive dealing and exclusionary arrangements

Standard White Cabs Limited

s. 87B undertaking dated 14 October 2014

The ACCC has accepted an undertaking from Standard White Cabs Limited, trading as Townsville Taxis (ACN 009 743 962) (Townsville Taxis). The undertaking relates to Townsville Taxis restricting its affiliated drivers from making lawful use of mobile telephones and third-party booking applications, including 'goCatch', to accept taxi bookings.

As part of its undertaking, Townsville Taxis will ensure that its affiliated drivers are free to lawfully use a third party booking application and/or a mobile telephone to receive taxi bookings from customers, and will provide them with notice of the undertaking.

Townsville Taxis will also implement a competition and consumer law compliance program designed to minimise its risk of future potential breaches of the CCA.

Resale price maintenance

Italiattech Australia Pty Ltd and TMO Sports Pty Ltd

s. 87B undertaking dated 9 December 2014

The ACCC has accepted undertakings from Italiattech Australia Pty Ltd and TMO Sports Pty Ltd, two importers and wholesale distributors of bicycle parts and accessories to retailers Australia wide. The companies admitted that they had engaged in conduct that amounted to, or was likely to amount to, resale price maintenance.

Italiattech and TMO have both undertaken to:

- not engage in resale price maintenance for a period of five years
 - write to their retailer customers informing them of the undertaking and their freedom to determine resale prices
 - implement and maintain training programs for current and future staff
 - include statements with list pricing informing customers that references to resale prices are only recommendations and that there is no obligation to comply with the recommendation.
-

Cabcharge Australia Limited

s. 87B undertaking dated 26 June 2015

The ACCC has accepted an undertaking from Cabcharge Australia Limited which outlines a process under which rival payment processors (third parties) will be able to process Cabcharge cards on their own in-taxi payment terminals. Cabcharge is a major participant in the taxi industry, providing products to its account holders for use in transactions in connection with services supplied by operators of taxis and hire cars, including Cabcharge branded cards. It also supplies technology and systems to merchants throughout Australia that allow acceptance and processing of transactions for paying taxi fares by Cabcharge cards and bank issued credit, charge and debit cards (such as Visa, MasterCard and American Express).

The undertaking provided by Cabcharge arises from an investigation into allegations that, between 2011 and 2012, Cabcharge had refused to deal with a third party processor making requests pursuant to the Request Processing Policy. The investigation also concerned allegations that Cabcharge had constructively refused to deal with third parties by establishing and implementing the Request Processing Policy in terms that would discourage or deter requests.

Under the terms of the undertaking, Cabcharge has undertaken, for a period of five years, to among other things:

- negotiate with third parties in good faith in relation to providing access to the system that will allow them to process Cabcharge cards
 - execute an agreement with third parties who apply for access in accordance with the provisions set out in the undertaking
 - provide to a third party which has executed an agreement any reasonable technological support requested by the third party to enable it to process Cabcharge cards, and
 - provide access to third parties that have demonstrated they can provide processing services on the terms set out in the agreement.
-

Goal 2: Protect the interests and safety of consumers and support fair trading in markets

Competition and Consumer Act 2010 s. 87B undertakings accepted

Australian Consumer Law

“To encourage fair trading, protection of consumers and product safety”

Product safety

Mrs Le Tian trading as SavingForAussie

s. 87B undertaking dated 4 August 2014

The ACCC has accepted an undertaking from Mrs Le Tian, trading/ as SavingForAussie, for supplying a household cot that did not comply with the relevant safety standard, in breach of s. 106 of the Australian Consumer Law (ACL).

Mrs Tian has undertaken that she will:

- not supply or offer to supply consumer goods that are the subject of a safety standard in force under the ACL, unless those goods comply with the relevant standard and Tian has obtained specified written evidence of compliance from an accredited testing agency
 - send the recall notice by email and post to customers who have not yet responded to the recall
 - provide, at the customer’s discretion, full refunds or replacement household cots that comply with the Standard, to customers who respond to the recall, and
 - establish and implement a Consumer Law Compliance Program.
-

Credence claims

Maggie Beer Products Pty Ltd

s. 87B undertaking dated 18 August 2014

The ACCC accepted an undertaking from Maggie Beer Products in response to an investigation into allegations that between at least 1 January 2011 and 8 January 2014 Maggie Beer Products made misleading representations on certain ‘Maggie Beer’ branded products.

Maggie Beer Products also made representations directly to Woolworths Ltd in email correspondence and to the public at a ‘Local Fair’ held at a Woolworths store on 12 and 13 April 2013, that certain products were made in South Australia or were otherwise ‘local’ products, when, in fact, they were manufactured in states other than South Australia.

Maggie Beer has undertaken to:

- apply amended labelling to ‘Maggie Beer’ branded products that are made outside of South Australia to accurately reflect the place of manufacture
 - publish an educative article in Food Magazine, and
 - undertake a review of its consumer law compliance procedures.
-

Express Mobile Services Australia Pty Ltd

s. 87B undertaking dated 20 August 2014

The ACCC has accepted an undertaking from Express Mobile Services Australia Pty Ltd in relation to a failure to comply with certain requirements of the Franchising Code of Conduct, as well as potentially false or misleading representations in its brochures, on its websites and in its advertisements on other websites to prospective franchisees.

Express Mobile Services is a mobile professional services franchise business with multiple divisions across Australia. The ACCC was concerned that Express Mobile Services' franchise agreements did not meet the requirements of the Franchising Code of Conduct because they contained waivers of verbal or written representations. The ACCC was also concerned that Express Mobile Services made representations likely to mislead or deceive prospective franchisees, and Express Mobile Services acknowledges that by engaging in this conduct it may have contravened sections 18 and 29(1)(l) of the ACL.

Express Mobile Services has undertaken to:

- not engage in the same or similar conduct for three years,
- provide current and prospective franchisees with franchise agreements and disclosure documents that comply with the Franchising Code of Conduct, and
- establish and implement a Consumer Law Compliance Program, which includes formal training of employees and master franchisees.

Coles Supermarkets Australia Pty Ltd

s. 87B undertaking dated 16 December 2014

In addition to the orders made by the Federal Court on 22 December 2014, Coles gave a court enforceable undertaking to the ACCC which provides for the establishment of a formal process overseen by an Independent Arbiter that will allow for a review of the eligibility of:

- over 200 smaller suppliers (categorised by Coles as Tier 3 Suppliers) to obtain refunds of any amounts by which their ARC rebate payments exceeded the benefits which they obtained from the ARC program
- suppliers referred to in the second proceedings in respect of which Coles has made admissions in the relevant Statement of Agreed Facts and Admissions filed with the Court to obtain possible payments.

False or misleading representations

InvoCare Limited

s. 87B undertaking dated 14 November 2014

The ACCC has accepted an undertaking from InvoCare Limited and its subsidiary InvoCare Australia Pty Ltd for making representations to consumers that were likely to be false and misleading about the need to purchase memorials at InvoCare-owned cemeteries. To address the ACCC's concerns, InvoCare has provided the ACCC with a court enforceable undertaking that it will:

- not represent to any customer that they are subject to terms inconsistent with the terms of their contract
- not require any customer who purchases a burial site to purchase a memorial, including those customers who hold existing contracts containing this condition and have not yet purchased a memorial
- allow customers who do choose to have a memorial to source bronze plaques from a supplier of their choosing
- make available the Chief Operating Officer of InvoCare Australia to handle complaints of conduct similar to the alleged conduct, and
- update its consumer law compliance program, with particular measures for risk assessment, complaints handling and staff training.

False or misleading representations

LivingSocial Pty Ltd

s. 87B undertaking dated 18 December 2014

The ACCC accepted an undertaking from LivingSocial Pty Ltd (LivingSocial) an online group buying site as a result of ACCC concerns about a term in Living Social's consumer contracts, and representations made on Living Social's website. LivingSocial has undertaken that it will:

- not make false or misleading representations with respect to price, or rights, remedies or guarantees, including consumer guarantees under the ACL
 - give voucher purchasers refunds in all circumstances where they are entitled to a refund in accordance with LivingSocial's terms and conditions and/or the consumer guarantee provisions of the ACL
 - display prices of deals inclusive of all mandatory additional fees except for delivery fees, the minimum charge for which will otherwise be specified if known at the time of publication
 - use only comparison pricing statements that are not misleading in representing the savings that could be achieved
 - send emails to all LivingSocial subscribers when substantive updates are made to its terms and conditions
 - send an email to all LivingSocial subscribers containing a corrective notice
 - develop and implement a compliance program.
-

Product safety

Toys “R” Us Australia Pty Ltd

s. 87B undertaking dated 29 October 2014

The ACCC has accepted a s. 87B undertaking from Toys “R” Us Australia Pty Ltd (Toys R Us) for supplying a household cot that did not comply with the relevant safety standard, in breach of s. 106 of the Australian Consumer Law (ACL). To address the ACCC’s concerns, Toys R Us has provided an undertaking that it will:

- not supply or offer to supply household cots that are the subject of a safety standard in force under the ACL, unless those household cots comply with the relevant standard and Toys R Us has obtained written evidence of compliance from an accredited testing agency
- send a further recall notice by email to all customers who have a current email subscription with Toys R Us
- continue to provide full refunds to customers who respond to the recall and pay all reasonable customer expenses associated with the recall, and
- establish and implement a Consumer Law Compliance Program, which includes formal training for staff.

Consumer guarantees

Electronic Arts Inc (Central Index Key 0000712515)

s. 87B undertaking dated 23 April 2015

Electronic Arts Inc (Central Index Key 0000712515), Swiss based EA Swiss Sarl (CH-660-2328005-8) and Australian based Electronic Arts Proprietary Limited (ACN 003 367 824) (together, EA), have undertaken to:

- for a period of three years, not make any representations to Australian consumers that EA has a no refunds policy that excludes any right to a refund under the ACL, or Australian consumers are not entitled to a refund under any circumstances
 - amend various contracts and documents on or related to its online store ‘Origin’
 - publish a Consumer Rights Notice on Origin
 - establish and implement a Consumer Redress Program over the next three months to reassess and assess consumer complaints in accordance with the Australian Consumer Law, and
 - establish and implement a Consumer Law Compliance Program, which includes formal staff training, risk assessment and complaints handling.
-

Infringement notices paid

Trader	Date paid and amount
Compare the Market Pty Ltd	8 August 2014 One notice totalling \$10 200
Mrs Le Tian t/as SavingForAussie	31 July 2014 One notice totalling \$2400
Hume Import & Export (Australia) Pty Ltd t/a Bera Foods	1 December 2014 One notice totalling \$10 200
InvoCare Limited	17 November 2014 One notice totalling \$102 000
Telstra Corporation Limited	16 December 2014 One notice totalling \$102 000
Toys "R" Us (Australia) Pty Ltd	30 October 2014 One notice totalling \$10 200
IPower Pty Ltd (t/a Simply Energy in partnership with IPower 2 Pty Ltd)	10 February 2015 Two notices totalling \$20 400
iiNet Limited	3 February 2015 Two notices totalling \$204 000
Independent Liquor Group Distribution Co-operative Ltd	17 March 2015 One notice totalling \$10 200
NIB Health Funds Ltd	29 April 2015 One notice totalling \$10 200
Supabarn Supermarkets Pty Ltd	21 May 2015 Two notices totalling \$20 400
The Real Juice Company Pty Ltd	25 May 2015 Two notices totalling \$20 400

Infringement notices paid under National Energy Retail Law and Rules

Trader	Date paid and amount
Ausgrid	23 January 2015 One notice totalling \$20 000
Endeavour Energy	23 January 2015 Two notices totalling \$40 000
Essential Energy	23 January 2015 Two notices totalling \$40 000
Essential Energy	16 March 2015 One notice totalling \$20 000
Ausgrid	16 March 2015 One notice totalling \$20 000
Tasmanian Networks Pty Ltd	16 March 2015 One notice totalling \$20 000
AGL South Australia Pty Ltd	5 May 2015 One notice totalling \$20 000
AGL Sales Pty Limited	5 May 2015 One notice totalling \$20 000

Goal 3: Promote the economically efficient operation of, use of and investment in monopoly infrastructure

Water Act 2007 s. 163 undertakings

No undertakings were accepted under s. 163 of the *Water Act 2007*.

Water Act 2007 s. 156 infringement notices

No infringement notices were issued under s. 156 of the *Water Act 2007*.

Australian Energy Regulator

Section 59A National Electricity Law undertakings

National Electricity Law

Compliance with dispatch instructions **Snowy Hydro Limited**
s. 59A undertaking dated 20 February 2015
The AER accepted an undertaking from Snowy Hydro Ltd as part of the resolution of court proceedings relating to contraventions of clause 4.9.8(a) of the National Electricity Rules.
The undertaking relates to Snowy Hydro's operation of its automatic generation control system under certain conditions.

Appendix 9: Litigation matters, review proceedings and tribunal proceedings in 2014–15

ACCC

Goal 1: Promote vigorous lawful competition and informed markets

Litigation concluded in 2014–15

Cartels	Renegade Gas Pty Ltd, Speed-E-Gas (NSW) Pty Ltd & Ors
	commenced 23 August 2012
	concluded 24 October 2014
	jurisdiction Federal Court Sydney
	outcome Penalties totalling \$8.3 million and \$600 000 contribution to ACCC costs. Injunctions and disqualification order and compliance training.

Litigation continuing at the end of 2014–15

Cartels	Air New Zealand Ltd
	commenced 12 May 2010
	jurisdiction Federal Court Sydney
Cartels	Australian Egg Corporation Limited & Ors
	commenced 26 May 2014
	jurisdiction Federal Court Adelaide
Anti-competitive agreement	Australia and New Zealand Banking Group Ltd (appeal)
	commenced 9 December 2013
	jurisdiction Federal Court Brisbane
Cartels	Cascade Coal Pty Ltd & Ors
	commenced 25 May 2015
	jurisdiction Federal Court Sydney
Anti-competitive agreement	Cement Australia Pty Ltd & Ors
	commenced 12 September 2008
	jurisdiction Federal Court Brisbane
Cartels	Colgate-Palmolive Pty Ltd & Ors
	commenced 12 December 2013
	jurisdiction Federal Court Sydney

Secondary boycotts	Construction Forestry Mining and Energy Union (CFMEU) commenced 20 November 2014 jurisdiction Federal Court Melbourne
Anti-competitive agreement	Flight Centre Ltd (appeal) commenced 17 April 2014 jurisdiction Federal Court Brisbane
Highly concentrated sectors	Informed Sources (Australia) Pty Ltd & Ors commenced 19 August 2014 jurisdiction Federal Court Melbourne
Exclusionary conduct	Little Company of Mary Health Care Limited commenced 10 December 2014 jurisdiction Federal Court Sydney
Cartels	OLEX Australia Pty Ltd & Ors commenced 4 December 2014 jurisdiction Federal Court Melbourne
Cartels	Omniblend Australia Pty Ltd commenced 14 August 2014 jurisdiction Federal Court Melbourne
Misuse of market power	Pfizer Australia Pty Ltd (appeal) commenced 13 February 2014 jurisdiction Federal Court Sydney
Cartels	Prysmian Cavi e Sistemi commenced 23 September 2009 jurisdiction Federal Court Adelaide
Cartels	P.T.Garuda Indonesia Ltd commenced 2 September 2009 jurisdiction Federal Court Sydney
Misuse of market power	Visa (Inc) & Ors commenced 4 February 2013 jurisdiction Federal Court Sydney
Cartels	Yazaki Corporation & Australian Arrow Pty Ltd commenced 13 December 2012 jurisdiction Federal Court Sydney

Goal 2: Encourage fair trading, protection of consumers and product safety

Litigation concluded in 2014–15

Carbon price representations	Actrol Parts Pty Ltd	
	commenced	30 April 2014
	concluded	2 April 2015
	jurisdiction	Federal Court Adelaide
	outcome	Penalty totalling \$520 000, corrective notice, compliance program, injunction and costs
False and misleading representations	AGL South Australia Pty Ltd	
	commenced	5 December 2013
	concluded	29 April 2015
	jurisdiction	Federal Court Adelaide
	outcome	Penalty totalling \$700 000, consumer redress of approximately \$782 000, publication orders, extension of AGL SA's compliance program and costs.
False and misleading representations	Breast Check Pty Ltd (now PO Health Professionals Pty Ltd)	
	commenced	21 December 2011
	concluded	3 October 2014
	jurisdiction	Federal Court Perth
	outcome	\$100 000 penalties, declarations, injunctions.
Credence claims	Pirovic Enterprises Pty Ltd	
	commenced	10 December 2013
	concluded	23 September 2014
	jurisdiction	Federal Court Sydney
	outcome	\$300 000 pecuniary penalty and declarations for misleading conduct and making misleading representations in labelling and promotion of eggs as 'free range'.
Unconscionable conduct	Coles Supermarkets Australia Pty Ltd	
	commenced	5 May 2014
	concluded	22 December 2014
	jurisdiction	Federal Court Melbourne
	outcome	\$10 million penalty, declarations, court enforceable undertaking and refunds of \$12 million pursuant to independent arbiter statement and costs.

Credence claims	Coles Supermarkets Australia Pty Ltd	
	commenced	12 June 2013
	concluded	10 April 2015
	jurisdiction	Federal Court Melbourne
	outcome	Penalty of \$2.5 million, corrective notice, injunction and costs.
Unconscionable conduct	Coverall Cleaning Concepts South East Melbourne Pty Ltd & Ors (now South East Melbourne Cleaning Pty Ltd in liquidation)	
	commenced	17 July 2014
	concluded	12 November 2014
	jurisdiction	Federal Court Melbourne
	outcome	\$30 000 penalty, declaration, compensation order, disqualification order and ACCC costs.
False or misleading representations	Dhruv Chopra (Electronic Bazaar)	
	commenced	3 December 2014
	concluded	29 May 2015
	jurisdiction	Federal Court Melbourne
	outcome	Declarations, penalties totalling \$100 000, injunction, ACL training for Chopra and costs.
False or misleading representations	EnergyAustralia Pty Ltd and Bright Choice Australia Pty Ltd	
	commenced	20 November 2014
	concluded	27 March 2015
	jurisdiction	Federal Court Melbourne
	outcome	Penalties totalling \$1 000 000, declarations, injunction, compliance program and costs.
Extended warranty marketing	Fisher & Paykel Customer Services Pty Ltd and Domestic & General Services Pty Ltd	
	commenced	12 November 2013
	concluded	27 January 2015
	jurisdiction	Federal Court Sydney
	outcome	Declarations, penalties totalling \$400 000, compliance program and costs
False or misleading representations	Origin Energy Limited, Origin Electricity, Origin Gas	
	commenced	26 September 2013
	concluded	30 March 2015
	jurisdiction	Federal Court Sydney
	outcome	Penalties totalling \$2 350 000, declarations, compliance programs and publication orders and costs.

False or misleading representations	Origin Energy Limited, Origin Electricity, Origin Gas	
	commenced	8 May 2014
	concluded	9 February 2015
	jurisdiction	Federal Court Adelaide
	outcome	Declarations, penalties totalling \$325 000, publication of a notice, notification of the conduct to the affected consumers which will invite them to contact Origin if they consider they were misled, costs.
Credence claims	Reebok Australia Pty Ltd	
	commenced	17 December 2013
	concluded	23 October 2014
	jurisdiction	Federal Court Perth
	outcome	\$350 000 penalty; refund orders; compliance program order and costs.
False or misleading representations	Safe Breast Imaging Pty Ltd & Anor	
	commenced	21 December 2011
	concluded	16 September 2014
	jurisdiction	Federal Court Perth
	outcome	\$250 000 in penalties, declarations, injunctions, disqualification order, publicity orders for false representations about its breast imaging services and costs.
Online consumer issues	Spreets Pty Ltd	
	commenced	30 June 2014
	concluded	24 April 2015
	jurisdiction	Federal Court Brisbane
	outcome	Penalty of \$600 000, declaration, compliance program maintained and contribution to ACCC costs.
False or misleading telemarketing	Zen Telecom Pty Ltd	
	commenced	28 February 2014
	concluded	30 September 2014
	jurisdiction	Federal Court Perth
	outcome	\$225 000 000 penalties, declarations, injunctions, compliance program, corrective notices and costs.

Litigation continuing at the end of 2014–15

Indigenous Consumer protection, unsolicited consumer agreements	Adata Pty Ltd commenced 20 June 2014 jurisdiction Federal Court Darwin
Unconscionable conduct and unfair contract terms	Advanced Medical Institute Pty Ltd & Ors (appeal) commenced 21 December 2010 jurisdiction Federal Court Melbourne
Fake testimonials	A Whistle (1979) Pty Ltd t/as Electrodry commenced 1 July 2014 jurisdiction Federal Court Sydney
Consumer Guarantees	Bunavit Pty Ltd (trading as Harvey Norman AV/IT Superstore Bundall) commenced 12 June 2013 jurisdiction Federal Court Brisbane
Unfair contract terms	Chrisco Hampers Australia Ltd commenced 19 December 2014 jurisdiction Federal Court Brisbane
False or misleading representations	CLA Trading Pty Ltd t/a Europcar commenced 10 November 2014 jurisdiction Federal Court Perth
Vulnerable and disadvantaged consumers	Clinica Internationale Pty Ltd & Anor commenced 15 May 2015 jurisdiction Federal Court Melbourne
Product safety	Dateline Iimports Pty Ltd commenced 25 June 2012 jurisdiction Federal Court Brisbane
Credence claims	Derodi Pty Ltd and Holland Farms Pty Ltd commenced 5 December 2014 jurisdiction Federal Court Sydney
Credence claims	DuluxGroup (Australia) Pty Ltd commenced 5 December 2012 jurisdiction Federal Court Perth
False or misleading representations	Hillside (Australia New Media) Pty Ltd t/as Bet365 commenced 13 August 2014 jurisdiction Federal Court Melbourne
False and misleading representations	Homeopathy Plus! Australia Pty Ltd & Ors commenced 20 February 2013 jurisdiction Federal Court Sydney

Drip pricing	Jetstar Airways Pty Ltd commenced 19 June 2014 jurisdiction Federal Court Sydney
Vulnerable and disadvantaged consumers	Lux Distributors Pty Ltd (appeal) commenced 10 May 2012 jurisdiction High Court
Pyramid selling	Lyonesse Australia Pty Ltd & Ors commenced 28 August 2014 jurisdiction Federal Court Sydney
Product safety	Online Dealz Pty Ltd & Anor commenced 30 March 2015 jurisdiction Federal Court Sydney
False or misleading representations	Reckitt Benckiser (Australia) Pty Ltd commenced 4 March 2015 jurisdiction Federal Court Sydney
Credence claims	RL Adams Pty Ltd (trading as Darling Downs Fresh Eggs) commenced 9 December 2014 jurisdiction Federal Court Brisbane
Small business	Safety Compliance Pty Ltd & Ors commenced 16 April 2012 jurisdiction Federal Court Sydney
Scam	Sensaslim Australia Pty Ltd & Ors commenced 15 July 2011 jurisdiction Federal Court Sydney
Credence claims	Snowdale Holdings Pty Ltd commenced 9 December 2013 jurisdiction Federal Court Perth
Consumer guarantees	Valve Corporation Pty Ltd commenced 28 August 2014 jurisdiction Federal Court Sydney
Drip pricing	Virgin Australia Airlines Pty Ltd commenced 19 June 2014 jurisdiction Federal Court Sydney
False or misleading representations	We Buy Houses Pty Ltd and Rick Otton commenced 2 March 2015 jurisdiction Federal Court Sydney
Product safety	Woolworths Ltd commenced 17 September 2014 jurisdiction Federal Court Sydney

Other proceedings

Application for review of ACCC Authorisation A91427 by Independent Contractors Australia

On 3 November 2014, Independent Contractors Australia applied to the Australian Competition Tribunal for review of the ACCC's determination of 16 October 2014 to grant authorisation to the Transport Workers Union of Australia (Queensland Branch) and its current and future member drivers to collectively bargain with Toll Transport over the supply of air freight courier services at the Brisbane airport depot. On 21 January 2015, the Tribunal decided that Independent Contractors Australia did not have sufficient standing to bring the application for review and dismissed the matter. This means the ACCC's decision to grant authorisation until 31 October 2017 stands.

Other

Non-compliance with statutory notice	Michael Anthony Boyle	
	commenced	10 September 2014
	jurisdiction	Federal Court Brisbane
Non-compliance with statutory notice	Robert Paul Davies	
	commenced	22 September 2014
	jurisdiction	Federal Court Brisbane

Concluded in 2014–15

Nil.

Public warning notices

There were no public warning notices issued in 2014–15.

Disqualification orders

There were no disqualification orders made during 2014–15.

Orders sought in proceedings continuing at the end of 2014–15

There were no orders sought.

AER

Litigation concluded in 2014–15

Judicial review of Advanced Metering Infrastructure budget decision	AusNet Services	
	commenced	4 March 2013
	concluded	17 September 2014
	jurisdiction	Federal Court Victoria
	outcome	Application for judicial review of AER's decision regarding AusNet Services' Advanced Metering Infrastructure budget dismissed.

Compliance with dispatch instructions	Snowy Hydro Limited
commenced	2 July 2014
concluded	12 February 2015
jurisdiction	Federal Court Victoria
outcome	\$400 000 in penalties for failure to comply with AEMO dispatch instructions, contribution to the AER's costs, appointment of an independent compliance expert to review internal documents relating to compliance with dispatch instructions.

Explicit informed consent	EnergyAustralia Pty Ltd
commenced	21 November 2014
concluded	27 March 2015
jurisdiction	Federal Court Victoria
outcome	Consent orders including \$500 000 in penalties for contravening the National Energy Retail Law by failing to obtain the explicit informed consent of customers before entering them into contracts or transferring them from another retailer.

Litigation continuing at the end of 2014–15

Judicial review of preliminary determination	Ergon Energy Corporation Limited
commenced	29 May 2015
jurisdiction	Federal Court Queensland
	First directions hearing listed for 21 September 2015 (the commencement of the hearing of the Australian Competition Tribunal review applications). It is the intention of the Australian Competition Tribunal to have the matter stood over until it makes its decision on the review applications.

Judicial review of 2014–19 distribution determination	Ausgrid
commenced	28 May 2015
jurisdiction	Federal Court New South Wales
	First directions hearing listed for 21 September 2015 (the commencement of the hearing of the Australian Competition Tribunal review applications). It is the intention of the Australian Competition Tribunal to have the matter stood over until it makes its decision on the review applications.

Judicial review of 2014–19 distribution determination	Endeavour Energy
commenced	28 May 2015
jurisdiction	Federal Court New South Wales
	First directions hearing listed for 21 September 2015 (the commencement of the hearing of the Australian Competition Tribunal review applications). It is the intention of the Australian Competition Tribunal to have the matter stood over until it makes its decision on the review applications.

Judicial review of 2014–19
distribution determination

Essential Energy

commenced | 28 May 2015
jurisdiction | Federal Court New South Wales

First directions hearing listed for 21 September 2015 (the commencement of the hearing of the Australian Competition Tribunal review applications). It is the intention of the Australian Competition Tribunal to have the matter stood over until it makes its decision on the review applications.

Judicial review of 2014–19
distribution determination

ActewAGL Distribution

commenced | 28 May 2015
jurisdiction | Federal Court Victoria

First directions hearing listed for 21 September 2015 (the commencement of the hearing of the Australian Competition Tribunal review applications). It is the intention of the Australian Competition Tribunal to have the matter stood over until it makes its decision on the review applications.

Judicial review of 2015–20
distribution gas access arrangement

Jemena Gas Networks (NSW) Limited

commenced | 30 June 2015
jurisdiction | Federal Court New South Wales

First directions hearing listed for 21 September 2015 (the commencement of the hearing of the Australian Competition Tribunal review applications). It is the intention of the Australian Competition Tribunal to have the matter stood over until it makes its decision on the review applications.

Australian Competition Tribunal matters

Application for leave and application for review of AER electricity distribution determination in relation to ActewAGL Distribution filed by Actew AGL Distribution on 21 May 2015.

Application for leave and application for review of AER electricity distribution determination in relation to Essential Energy filed by Essential Energy and by the Public Interest Advocacy Centre Ltd on 21 May 2015.

Application for leave and application for review of AER electricity distribution determination in relation to Endeavour Energy filed by Endeavour Energy and by the Public Interest Advocacy Centre Ltd on 21 May 2015.

Application for leave and application for review of AER electricity distribution determination in relation to Ausgrid filed by Ausgrid and by the Public Interest Advocacy Centre Ltd on 21 May 2015.

Application for leave and application for review of AER gas distribution access arrangement determination in relation to Jemena Gas Networks (NSW) Limited by Jemena Gas Networks (NSW) Limited on 24 June 2015.

Leave to appeal was granted on 17 July 2015 and all of these applications for review are listed for hearing together on 21 September 2015.

Application for leave to appeal an AER cost-pass through determination in respect of ActewAGL's electricity distribution network in the Australian Capital Territory filed by ActewAGL on 29 July 2014. Leave was given for this application to be withdrawn on 25 August 2014.

Appendix 10: Draft and final decisions in relation to regulated industries in 2014–15

AER

Electricity transmission decisions

- Final decision: Replace the Framework and Approach, which is to apply for the 2017–2022 regulatory control period for Powerlink, June 2015
- Draft decision: Service target performance incentive scheme—version 5, June 2014
- Decision: Approved ElectraNet’s proposal seeking early application of the network capability component of the service target performance incentive scheme (STPIS) in its current 2013–18 regulatory control period, May 2015
- Final decision: Electricity transmission determination—Directlink (Qld/NSW)—Regulatory control period 1 July 2015 to 30 June 2020, April 2015
- Final decision: Electricity transmission determination—TasNetworks (Tasmania)—Regulatory control period 1 July 2015 to 30 June 2019, April 2015
- Decision: Approved application from AusNet Services to pass through easement land tax Transmission Network Users in 2015–16, March 2015
- Final decision: Electricity transmission determination—TransGrid (NSW)—Regulatory control period 1 July 2015 to 30 June 2018, April 2015
- Final decision: Amendments to the electricity transmission and distribution post-tax revenue models, January 2015
- Draft decision: Electricity transmission determination—Directlink (Qld/NSW)—Regulatory control period 1 July 2015 to 30 June 2020, November 2014
- Draft decision: Electricity transmission determination—TasNetworks (Tasmania)—Regulatory control period 1 July 2015 to 30 June 2019, November 2014
- Draft decision: Electricity transmission determination—TransGrid (NSW)—Regulatory control period 1 July 2015 to 30 June 2018, November 2014
- Final decision: Service target performance incentive scheme—version 4.1, September 2014
- Final decision: Application of version 4 of the electricity transmission service target performance incentive scheme (STPIS) to a transmission business in their current regulatory control period. September 2014

Electricity distribution decisions

- Decision: Approved SA Power Networks resubmitted 2015–16 pricing proposal, June 2015
- Decision: Approved Essential Energy’s and Ausgrid’s network pricing proposals, June 2015
- Decision: Approved 2015–16 electricity tariffs for NSW, ACT, Qld and Tasmania electricity businesses: Ergon Energy, Energex, ActewAGL, Endeavour Energy, TasNetworks, June 2015
- Final decision: Electricity distribution determination—ActewAGL (ACT)—Regulatory control period 1 July 2015 to 30 June 2019, April 2015

- Final decision: Electricity distribution determination—Ausgrid (NSW)—Regulatory control period 1 July 2015 to 30 June 2019, April 2015
- Final decision: Electricity distribution determination—Endeavour Energy (NSW)—Regulatory control period 1 July 2015 to 30 June 2019, April 2015
- Final decision: Electricity distribution determination—Essential Energy (NSW)—Regulatory control period 1 July 2015 to 30 June 2019, April 2015
- Preliminary decision: Electricity distribution determination—Energex (Qld)—Regulatory control period 1 July 2015 to 30 June 2020, April 2015
- Preliminary decision: Electricity distribution determination—Ergon Energy (Qld)—Regulatory control period 1 July 2015 to 30 June 2020, April 2015
- Preliminary decision: Electricity distribution determination—SA Power Networks (SA)—Regulatory control period 1 July 2015 to 30 June 2020, April 2015
- Decision: Approved 2012–13 and 2013 demand management incentive allowance expenditure for Distribution Network Services Providers, April 2015
- Final decision: Approve cost allocation method for CitiPower, February 2015
- Final decision: Approve cost allocation method for Powercor, February 2015
- Final decision: Approve cost allocation method for AusNet Services, February 2015
- Final decision: Approve cost allocation method for Jemena, February 2015
- Final decision: Approve cost allocation method for United Energy, February 2015
- Decision: Authorised a limited form of disclosure and issued further disclosure notices in relation to NSW public lighting— Ausgrid, Endeavour Energy and their public lighting suppliers, January 2015
- Decision: Approved electricity network tariffs for the Victorian distributors CitiPower, Powercor, Jemena Electricity Networks, AusNet Services, and United Energy, for the period 1 January 2015 to 31 December 2015, December 2014
- Decision: Victorian distribution network service providers' 2015 advanced metering infrastructure charges, effective from 1 January to 31 December 2015, December 2014
- Draft decision: Electricity distribution determination—Essential Energy (NSW)—Regulatory control period 1 July 2015 to 30 June 2019, November 2014
- Draft decision: Electricity distribution determination—ActewAGL (ACT)—Regulatory control period 1 July 2015 to 30 June 2019, November 2014
- Draft decision: Electricity distribution determination—Ausgrid (NSW)—Regulatory control period 1 July 2015 to 30 June 2019, November 2014
- Draft decision: Electricity distribution determination—Endeavour Energy (NSW)—Regulatory control period 1 July 2015 to 30 June 2019, November 2014
- Final decision: Replace the Framework and Approach, which is to apply for the 2016–2020 regulatory control period for Ausnet Services (distribution), October 2014
- Final decision: Replace the Framework and Approach, which is to apply for the 2016–2020 regulatory control period for Jemena, October 2014
- Final decision: Replace the Framework and Approach, which is to apply for the 2016–2020 regulatory control period for Powercor, October 2014
- Final decision: Replace the Framework and Approach, which is to apply for the 2016–2020 regulatory control period for United Energy, October 2014
- Final decision: Replace the Framework and Approach, which is to apply for the 2016–2020 regulatory control period for CitiPower, October 2014
- Final decision: Approve applications by Powercor and AusNet Services for Powerline Bushfire Safety Program increased costs, September 2014

- Final decision: F-factor amount determinations for 2013 fire start outcomes in Victoria, August 2014
- Final decision: Approve cost allocation method for Ergon Energy, August 2014

Gas transmission and distribution decisions

- Decision: Approved Roma to Brisbane Pipeline negative cost pass-through to remove carbon price revenues from their 2015–16 and 2016–17 reference tariffs, June 2015
- Decision: Approved Allgas Energy's negative cost pass-through to remove carbon price revenues from Allgas Energy's 2015–16 reference tariffs, June 2015
- Decision: Approved 2015–16 tariff variations for NSW, ACT, SA and NT gas businesses: Amadeus Gas Pipeline, Roma Brisbane Pipeline, Central Ranges Pipeline Gas Network (distribution), Allgas (Qld), Australian Gas Networks (SA), Central Ranges Pipeline Gas Network (transmission), June 2015
- Final decision: Gas distribution determination—Jemena Gas Networks (NSW)—Regulatory control period 1 July 2015 to 30 June 2020, June 2015
- Decision: Approved the Victorian gas transmission and distribution tariffs for the period 1 January to 31 December 2015 for APA GasNet, Australian Gas Networks (Victoria and Albury) (formerly Envestra), Multinet Gas and AusNet Services, December 2014
- Draft decision: Gas distribution determination—Jemena Gas Networks (NSW)—Regulatory control period 1 July 2015 to 30 June 2020, November 2014
- Decision: Approved a cost pass through tariff application by Australian Gas Networks (AGN) (Victoria), formerly Envestra, for increased costs arising from its 2013–17 mains replacement program, November 2014

Retail energy market decisions

- Decision: Appointed default Retailers of Last Resort for ACT (gas) and Queensland (gas), 3 June 2015
- Decision: Registered additional Retailers of Last Resort with non-firm offers (gas and electricity) for Queensland, ACT, NSW and South Australia, 3 June 2015
- Decision: Granted Concise Energy an individual exemption for the sale of electricity, May 2015
- Decision: Granted GDY Solar an individual exemption for the sale of electricity, May 2015
- Decision: Granted Global SPV 12 an individual exemption for the sale of electricity, May 2015
- Decision: Granted ASC Energy an individual exemption for the sale of electricity, May 2015
- Decision: Granted Global SPV4 an individual exemption for the sale of electricity, May 2015
- Decision: Granted OTI Power an individual exemption for the sale of electricity, May 2015
- Decision: Granted Solar Assets an individual exemption for the sale of electricity, May 2015
- Decision: Granted Efficient Homes Australia an individual exemption for the sale of electricity, May 2015
- Decision: Granted First Solar (Australia) an individual exemption for the sale of electricity, May 2015
- Decision: Issued infringement notice to AGL for disconnection of customers in hardship or on payment plans, May 2015

- Decision: Granted COzero Solarlink an individual exemption for the sale of electricity, April 2015
- Decision: Granted Energy Today an individual exemption for the sale of electricity, April 2015
- Decision: Granted Embedded Networks Solutions Australia an individual exemption for the sale of electricity, March 2015
- Decision: Granted Blue Star Energy Pty Ltd an individual exemption for the sale of electricity, March 2015
- Decision: Issued infringement notice—relating to incidents in which customers known to require life support equipment unexpectedly lost electricity supply—Essential Energy, Ausgrid, and TasNetworks, February 2015
- Decision: Granted Global Clean Energy Finance an individual exemption for the sale of electricity, February 2015
- Decision: Granted Sunlease and Sunlease Management an individual exemption for the sale of electricity, February 2015
- Decision: Granted AGL Energy Services an individual exemption for the sale of electricity, February 2015
- Decision: Granted Aquion Energy an individual exemption for the sale of electricity, February 2015
- Decision: Amended individual exemptions for the sale of electricity for Demand Manager Pty Ltd, SEL Absolute Return Fund SA Pty Ltd (Solar Wholesalers), Tindo Asset Management Pty Ltd and Express Solar Pty Ltd, February 2015
- Decision: Granted Origin Energy Retail No 2 an individual exemption for the sale of electricity, January 2015
- Decision: Granted Solar Panels Pty Ltd an individual exemption for the sale of electricity, January 2015
- Decision: Amended an individual exemption for the sale of electricity for Kudos Energy Pty Ltd, January 2015
- Decision: Granted Sunburnt Country Power an individual exemption for the sale of electricity, December 2014
- Decision: Granted Permintex Energy Resources an individual exemption for the sale of electricity, December 2014
- Decision: Granted Humenergy Group an individual exemption for the sale of electricity, December 2014
- Decision: Granted Energy Lease an individual exemption for the sale of electricity, December 2014
- Decision: Granted Brookfield District Energy (CP) Pty Ltd an individual exemption for the sale of electricity, October 2014
- Decision: Granted Countrywide Energy Pty Ltd an individual exemption for the sale of electricity, October 2014
- Decision: Granted Trading Green Pty Ltd an individual exemption for the sale of electricity, October 2014
- Decision: Granted Horan & Bird an individual exemption for the sale of electricity, October 2014
- Decision: Granted Kenjarhy Solar Pty Ltd an individual exemption for the sale of electricity, October 2014
- Decision: Granted Solarmine Pty Ltd an individual exemption for the sale of electricity, October 2014
- Decision: Granted Demand Manager Solar Funding an individual exemption for the sale of electricity, October 2014

- Decision: Granted Locality Planning Energy Pty Ltd an electricity retailer authorisation, November 2014
- Decision: Granted Pietermaritzburg an individual exemption for the sale of electricity, September 2014
- Decision: Granted SE Solar 3 an individual exemption for the sale of electricity, September 2014
- Decision: Granted PPA Direct, PPA Energy, PPA Farm, PPA Electrical, PPA Now, PPA Solar, PPA Green and Green Urban Group an individual exemption for the sale of electricity, September 2014
- Decision: AGL default retailer of last resort (RoLR) cost recovery application, August 2014
- Decision: Granted OC Energy Pty Ltd an electricity retailer authorisation, August 2014
- Decision: Granted Next Business Energy Pty Ltd an electricity retailer authorisation, August 2014
- Decision: Granted Applied Environmental Solutions an individual exemption for the sale of electricity, July 2014
- Decision: Granted REpower Shoalhaven an individual exemption for the sale of electricity, July 2014
- Decision: Granted Solar Professionals an individual exemption for the sale of electricity, July 2014
- Decision: Granted Suntrix an individual exemption for the sale of electricity, July 2014
- Decision: Granted Geitz ANZ an individual exemption for the sale of electricity, July 2014
- Decision: Granted Infinity Solar an individual exemption for the sale of electricity, July 2014
- Decision: Granted Solar Financial Solutions an individual exemption for the sale of electricity, July 2014
- Decision: Granted Sungevity an individual exemption for the sale of electricity, July 2014
- Decision: Granted Voltaic Energy an individual exemption for the sale of electricity, July 2014
- Decision: Granted Zero Cost Solar an individual exemption for the sale of electricity, July 2014
- Decision: Granted ePho Asset Management an individual exemption for the sale of electricity, July 2014
- Decision: Granted ET Solar Australia an individual exemption for the sale of electricity, July 2014
- Decision: Granted Nue Pty Ltd an individual exemption for the sale of electricity, July 2014
- Decision: Granted SE Solar 1 and SE Solar 2 an individual exemption for the sale of electricity, July 2014
- Decision: Granted Skycell an individual exemption for the sale of electricity, July 2014
- Decision: Granted Soly an individual exemption for the sale of electricity, July 2014
- Decision: Granted RF Industries an individual exemption for the sale of electricity, July 2014

Telecommunications

- Draft decision on prices for the fixed line services proposing a one-off uniform fall in access prices of 0.7 per cent for the seven access services for the period from 1 July 2015 to 30 June 2019, 11 March 2015
- Draft decision on non-price terms for the fixed line services, DTCS and MTAS, and connection charges for the fixed line services, 25 March 2015
- Further draft decision revising the 11 March 2015 draft decision and proposed one-off uniform fall of 9.6 per cent access prices for the seven declared fixed services to be applied from 1 October 2015 until 30 June 2019, 29 June 2015
- Final determination on NBN Co's Long Term Revenue Constraint Methodology (LTRCM) for the 2013–14 financial year, 11 June 2015
- Draft decision on the regulated price that mobile network operators charge each other and fixed-line network operators for receiving calls on their mobile network. For the first time, the ACCC draft decision also included a regulated price that mobile network operators may charge for receiving SMS messages, 6 May 2015
- Approval of Telstra's revised Migration Plan, which sets out how it will progressively migrate telephone and internet services to the National Broadband Network (NBN) as it is rolled out, 26 June 2015.

Transport

Rail

- Position paper on ARTC's Hunter Valley access undertaking final indicative services (efficient train configuration) variation 2014.
- Position paper on ARTC's Hunter Valley access undertaking annual compliance assessment for the 2013 calendar year.

Wheat export marketing arrangements

- Final determination that GrainCorp is an exempt service provider at its Carrington terminal at the Port of Newcastle, 1 October 2014.
- Draft determinations that Emerald is an exempt service provider at its Melbourne Port Terminal and GrainCorp is an exempt service provider at its Geelong port terminal, 10 April 2015.
- Final determinations that Emerald is an exempt service provider at its Melbourne Port Terminal and GrainCorp is an exempt service provider at its Geelong port terminal, 25 June 2015.
- Final decision to consent to CBH's application to extend and vary its 2011 Port Terminal Services Access Undertaking, 25 September 2014.
- Draft decision to consent to GrainCorp's July 2014 application to extend and vary its 2011 Port Terminal Services Access Undertaking, 21 August 2014.
- Final decision to consent to GrainCorp's September 2014 application to extend and vary its 2011 Port Terminal Services Access Undertaking, 25 September 2014.
- Draft decision to consent to Emerald's application to extend and vary its 2011 Port Terminal Services Access Undertaking, 7 August 2014.
- Final decision to consent to Emerald's application to extend and vary its 2011 Port Terminal Services Access Undertaking, 4 September 2014.

Airports and aviation

- Final decision on Airservices Australia 2015 price notification—Decision to not object (Final) 17 June 2015.

Water

- Draft decision on the charges that Water NSW is able to levy for infrastructure services in the Murray-Darling Basin during 2015-16, 16 April 2015
- Final decision on the charges that Water NSW is able to levy for infrastructure services in the Murray-Darling Basin during 2015-16, 5 June 2015.

Appendix 11: Major regulatory reports and reviews in 2014–15

AER

Reports

- AER statement of intent 2015–16, June 2015
- Electricity distributors 2011–13 performance report, June 2015
- Victorian electricity distribution businesses' public fire start reports—2014, June 2015
- Prices above \$5000/MWh—5 March 2015 (Qld), May 2015
- Transmission service standards compliance reports 2014: Powerlink, TasNetworks, ElectraNet, Directlink, Murraylink and TransGrid, April 2015
- Transmission service standards compliance report 2014: AusNet Services, March 2015
- Prices above \$5000/MWh—15 January 2015 (Qld), March 2015
- Prices above \$5000/MWh—18 January 2015 (Qld), March 2015
- Prices above \$5000/MWh—17 December 2014 (Qld), March 2015
- Targeted review of energy retailers' hardship policies and practices, January 2015
- New versions of the post-tax revenue models (PTRMs), January 2015
- State of the energy market report, December 2014
- 2013–2014 Economic Benchmarking RIN responses, December 2014
- 2013–2014 Category Analysis RIN responses, December 2014
- Updated electricity consumption benchmarks for residential customers, December 2014
- Significant price report—17 October 2014 (Brisbane STTM), December 2014
- Distribution and Transmission Annual Benchmarking Report 2014, November 2014
- National Energy Retail Law Annual compliance report, November 2014
- Annual report on the performance of the retail energy market for 2013–14, November 2014
- Electricity bill benchmarks for residential customers, Report by ACIL Allen, October 2014
- AER annual report, September 2014
- Significant price report—7 July 2014 (Brisbane STTM), September 2014
- Retail energy quarterly market performance updates, January 2015, March 2015, March 2014, June 2015
- Quarterly compliance report: National electricity and gas laws, August 2014, November 2014, February 2015, May 2015
- Electricity reports, weekly
- Gas reports, weekly

Guidelines and other consultation

- Retailer of Last Resort plan (consultation on amendments), June 2015
- Draft Retail Pricing Information Guidelines, Version 4.0, April 2015 (for consultation)
- (AER) Retail Exempt Selling Guideline, Version 3, April 2015

- Electricity Transmission Network Service Providers Information Guideline, Version 2, April 2015
- Issues Paper, Regulating innovative energy selling businesses under the National Energy Retail Law, November 2014
- Retailer Authorisation Guideline, Version 2, December 2014
- Draft Determination, Retail Exempt Selling Guideline, Version 3, December 2014
- Draft information guideline for electricity transmission network service providers, December 2014
- Draft Guideline, AER Retailer Authorisation Guideline, Version 2 (draft), October 2014
- Compliance Procedures and Guidelines, Version 3, September 2014
- Revised guideline: Transmission Pricing Methodology Guidelines, July 2014
- Final Statement of Approach for the regulation of alternative energy sellers, July 2014

Telecommunications

Reports

- Changes in the prices paid for telecommunications services in Australia for 2013–14, March 2014
- Telecommunications competitive safeguards for 2013–14, March 2014
- Telstra's compliance with retail price control arrangements 2013–14, October 2014
- Annual report on Telstra's compliance with its Structural Separation Undertaking (SSU) for 2013–14

Fuel

- Monitoring of the Australian petroleum industry—Report of the ACCC into the prices, costs and profits of unleaded petrol in Australia—December 2014
- Quarterly report on the Australian petroleum industry—February 2015
- Quarterly report on the Australian petroleum industry—May 2015

Transport

- Airport monitoring report 2013–14, April 2015
- Container stevedoring monitoring report no.16, October 2014

Postal services

- Assessing cross-subsidy in Australia Post 2013–14, 14 April 2015

Water

Reports

- Water Monitoring Report for 2013–14, 21 May 2015

Appendix 12: Mergers in 2014–15—major assessments

All public merger decisions for 2014–15 were published on the [ACCC website](#). Notable examples are listed below.

Public merger reviews resolved by court enforceable undertakings

- Hertz Global Holdings Inc—acquisition of Dollar Thrifty Automotive Group Inc
- GlaxoSmithKline plc—proposed acquisition of human vaccines business of Novartis AG
- GSK Consumer Healthcare—proposed acquisition of GlaxoSmithKline plc and Novartis AG
- Elgas Limited—proposed acquisition of Wesfarmers Kleenheat Gas Pty Ltd's east coast LPG assets
- Australian Amalgamated Terminals Pty Ltd (AAT)—proposed acquisition of Automotive and Ro-Ro Terminal at the Port of Fremantle
- Victoria Quay International RoRo Terminal Pty Ltd—proposed acquisition of Automotive and Ro-Ro Terminal at the Port of Fremantle
- Federation Centres and Novion Property Group—proposed merger

Merger reviews not opposed

- Dometic Group AB—acquisition of Atwood Investment Holdings LLC
- Channel 7 and Foxtel proposed joint venture to produce and supply a standalone subscription video on demand (SVOD) service
- Novartis AG—proposed acquisition of oncology products from GlaxoSmithKline plc
- JBS USA Holdings Inc—proposed acquisition of Australian Consolidated Food Investments Pty Ltd (Primo Smallgoods)
- CSR Limited and Boral Limited—proposed clay brick joint venture
- Expedia Inc—proposed acquisition of Wotif.com Holdings Limited
- First Pacific Company Limited and Wilmar International Limited—proposed acquisition of Goodman Fielder Ltd
- Aquis Group—proposed acquisition of the Reef Casino Trust

Appendix 13: Significant authorisation and notification decisions in 2014–15

Authorisations

In 2014–15 the ACCC issued 33 final authorisation decisions. Copies of all authorisation decisions for 2014–15 were published on the ACCC website at www.accc.gov.au/publicregister. Notable examples are listed below.

Notable authorisations granted

- The Association of Magazine Publishers of Australia Inc—Authorisation—A91472
- The State of Queensland acting through the Office of Liquor and Gaming Regulation—Revocation & Substitution—A91385 & A91386
- The Victorian Taxi Association (VTA)—Authorisation—A91428
- Tooltechnic Systems (Aust) Pty Ltd—Authorisation—A91433
- Tasmanian Farmers and Graziers Association—Authorisation—A91467
- Australian Seafood Industries Pty Ltd—Authorisation—A91444
- Australian Brick & Blocklaying Training Foundation Ltd & Ors—Revocation and Substitution—A91418
- Rio Tinto Coal Australia Pty Ltd & Ors—Authorisation—A91410 & A91411
- Medicines Australia Limited—Revocation and Substitution—A91436—A91440

Collective bargaining notifications

In addition to seeking authorisation for collective bargaining arrangements, parties are able to lodge a collective bargaining notification. In 2014–15, one matter involving one collective bargaining notification was lodged. Copies of all collective bargaining notifications and ACCC decisions are available from the [ACCC website](#).

Exclusive dealing notifications

In 2014–15, the ACCC assessed 777 exclusive dealing notifications involving 455 separate matters. Copies of all notifications are available from the [ACCC website](#).

Appendix 14: Correction of material errors in previous annual reports

Nil.

Glossary and abbreviations

AAT	Administrative Appeals Tribunal
ABA	Australian Bulk Alliance
ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
ACMA	Australian Communications and Media Authority
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
AGS	Australian Government Solicitor
APS	Australian Public Service
ARFF	aviation rescue, fire fighting
ARTC	Australian Rail Track Corporation
ASIC	Australian Securities and Investments Commission
AUSTRAC	Australian Transaction Reports and Analysis Centre
AWG	Australian Writers' Guild Limited
BBM	building block model
CA	Communications Alliance
CCA	<i>Competition and Consumer Act 2010</i>
CCEU	Competition and Consumer Economic Unit
CCG	Customer Consultative Group
CEO	chief executive officer
COAG	Council of Australian Governments
cpl	cents per litre
CPM	carbon price mechanism
DBCDE	Department of Broadband, Communications and the Digital Economy
DEHP	diethylhexyl phthalate
DNSP	distribution network service providers
DSP	demand side participation
DTCS	Domestic Transmission Capacity Service
EDRMS	Electronic Document Record Management System
EL	executive level
ESCV	Essential Services Commission of Victoria
ESV	Energy Safe Victoria
FADs	final access determinations
FCC	Franchising Consultative Committee
FiT	feed-in tariff

FMA Act	<i>Financial Management and Accountability Act 1997</i>
FOI	Freedom of Information
FTTH	fibre-to-the-home
HFC	hybrid fibre coaxial
ICPHSO	International Consumer Product Health and Safety Organization
ICPEN	International Consumer Protection and Enforcement Network
IMTS	Information Management and Technology Services Branch
IPS	Information Publication Scheme
IPTV	internet protocol television
LBAS	local bitstream access service
LCS	local carriage service
LPG	liquefied petroleum gas
LSS	line sharing service
LTPA	long-term pricing agreement
MDB	Murray-Darling Basin
MDBA	Murray-Darling Basin Authority
MIP	market impact parameter
Mogas	motor gasoline
MPS	mobile premium services
MTAS	mobile terminating access service
NBN	National Broadband Network
NBN Co	NBN Co Limited
NEM	National Electricity Market
NER	National Electricity Rules
NGR	National Gas Rules
NPP	new policy proposal
NSP	Network Service Plan
OECD	Organisation for Economic Co-operation and Development
OSP	Operational Separation Plan
PBS	portfolio budget statements
PPD	paraphenylene diamine
POH	Public Office Holder
PSCC	Product Safety Consultative Committee
PSM	People Services and Management Branch
PSTN	public switched telephone network
PSTN	OA public switched telephone network originating access
PSTN	TA public switched telephone network terminating access

RBP	Roma to Brisbane transmission pipeline
RDB	Regulatory Development Branch
RFI	request for information
RoLR	retailer of last resort
RTC	reconnecting the customer
SAU	special access undertaking
Section 87B	court enforceable undertaking made under s. 87B of the <i>Competition and Consumer Act 2010</i>
SES	Senior Executive Service
SSU	structural separation undertaking
STPIS	service target performance incentive scheme
STTM	short term trading market
TCP	telecommunications consumer protection
TGP	terminal gate price
TIO	Telecommunications Industry Ombudsman
TN	terminal navigation
TNSP	transmission network service providers
TPA	<i>Trade Practices Act 1974</i>
TSLRIC+	total service long-run incremental cost plus an allocation of indirect overhead costs
ULLS	unconditioned local loop service
VOIP	voice over internet protocol
WACC	weighted average cost of capital
WCIR	Water Charge (Infrastructure) Rules 2010
WCPMIR	Water Charge (Planning and Management Information) Rules 2010
WCTFR	Water Charge (Termination Fees) Rules 2009
WLR	wholesale line rental
WMR	Water Market Rules 2009

Compliance index

List of requirements

The following list shows this report's compliance with the requirements for annual reports for departments, executive agencies and FMA Act bodies.

Description	Requirement	Page
Letter of transmittal	Mandatory	iii
Table of contents	Mandatory	v
Index	Mandatory	383
Glossary	Mandatory	375
Contact officer(s)	Mandatory	ii, 19–21
Internet home page address and internet address for report	Mandatory	ii

Review by Secretary

Review by departmental secretary (i.e. ACCC and AER Chairmen)	Mandatory	2–6
Summary of significant issues and developments	Suggested	2–6
Overview of department's performance and financial results	Suggested	7–10
Outlook for following year	Suggested	5
Significant issues and developments—portfolio	Portfolio departments—suggested	Not applicable

Departmental Overview

Role and functions	Mandatory	12
Organisational structure	Mandatory	17–18
Outcome and program structure	Mandatory	17
Where outcome and program structures differ from PB Statements/PAES or other portfolio statements accompanying any other additional appropriation bills (other portfolio statements), details of variation and reasons for change	Mandatory	No variation
Portfolio structure	Portfolio departments—mandatory	Not applicable

Report on Performance

Description	Requirement	Page
Review of performance during the year in relation to programs and contribution to outcomes	Mandatory	23-199
Actual performance in relation to deliverables and KPIs set out in PB Statements/PAES or other portfolio statements	Mandatory	55-6, 121-2, 162-3, 202-240, 178, 189, 198
Where performance targets differ from the PB Statements/PAES, details of both former and new targets, and reasons for the change	Mandatory	No variation
Narrative discussion and analysis of performance	Mandatory	23-199
Trend information	Mandatory	7-10, 93, 117-8, 148-9, 222, 234
Significant changes in nature of principal functions/services	Suggested	Not applicable
Performance of purchaser/provider arrangements	If applicable, suggested	Not applicable
Factors, events or trends influencing departmental performance	Suggested	2-6, 23-199
Contribution of risk management in achieving objectives	Suggested	215
Performance against service charter customer service standards, complaints data, and the department's response to complaints	If applicable, mandatory	139-44, 207
Discussion and analysis of the department's financial performance	Mandatory	7-10
Discussion of any significant changes in financial results from the prior year, from budget or anticipated to have a significant impact on future operations	Mandatory	Not applicable
Agency resource statement and summary resource tables by outcomes	Mandatory	320-1

Management and Accountability

Corporate Governance

Agency heads are required to certify their agency's actions in dealing with fraud	Mandatory	iii, 215
Statement of the main corporate governance practices in place	Mandatory	210-4
Names of the senior executive and their responsibilities	Suggested	17-18
Senior management committees and their roles	Suggested	210-14
Corporate and operational plans and associated performance reporting and review	Suggested	210-14

	Description	Requirement	Page
	Internal arrangements including approach adopted to identify areas of significant financial or operational risk and arrangements to manage these risks	Suggested	210-14
	Policy and practices on the establishment and maintenance of appropriate ethical standards	Suggested	215-16
	How nature and amount of remuneration for SES officers is determined	Suggested	227-30
External Scrutiny			
	Significant developments in external scrutiny	Mandatory	216-18
	Judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner	Mandatory	216-18
	Reports by the Auditor-General, a Parliamentary Committee, the Commonwealth Ombudsman or an agency capability review	Mandatory	216-18
Management of Human Resources			
	Assessment of effectiveness in managing and developing human resources to achieve departmental objectives	Mandatory	218-30
	Workforce planning, staff turnover and retention	Suggested	218-9, 222-3, 322-3
	Impact and features of enterprise or collective agreements, individual flexibility arrangements (IFAs), determinations, common law contracts and Australian Workplace Agreements (AWAs)	Suggested	228-30
	Training and development undertaken and its impact	Suggested	219-21
	Work health and safety performance	Suggested	218-20, 324-5
	Productivity gains	Suggested	218-30
	Statistics on staffing	Mandatory	322-3
	Statistics on employees who identify as Indigenous	Mandatory	226
	Enterprise or collective agreements, IFAs, determinations, common law contracts and AWAs	Mandatory	216-8
	Performance pay	Mandatory	218
Assets management	Assessment of effectiveness of assets management	If applicable, mandatory	224
Purchasing	Assessment of purchasing against core policies and principles	Mandatory	238-9

	Description	Requirement	Page
Consultants	The annual report must include a summary statement detailing the number of new consultancy services contracts let during the year; the total actual expenditure on all new consultancy contracts let during the year (inclusive of GST); the number of ongoing consultancy contracts that were active in the reporting year; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST). The annual report must include a statement noting that information on contracts and consultancies is available through the AusTender website.	Mandatory	238–9
Australian National Audit Office Access Clauses	Absence of provisions in contracts allowing access by the Auditor-General	Mandatory	238
Exempt contracts	Contracts exempted from publication in AusTender	Mandatory	238
Small business	Procurement initiatives to support small businesses	Mandatory	238
Financial statements	Financial statements	Mandatory	241–316
Other Mandatory Information			
	Work health and safety (Schedule 2, Part 4 of the <i>Work Health and Safety Act 2011</i>)	Mandatory	324–5
	Advertising and Market Research (s. 311A of the <i>Commonwealth Electoral Act 1918</i>) and statement on advertising campaigns	Mandatory	326
	Ecologically sustainable development and environmental performance (s. 516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>)	Mandatory	327–8
	Compliance with the agency's obligations under the <i>Carer Recognition Act 2010</i>	If applicable, mandatory	Not applicable
	Grant programs	Mandatory	239
	Disability reporting—explicit and transparent reference to agency level information available through other reporting mechanisms	Mandatory	226
	Information Publication Scheme statement	Mandatory	218
	Correction of material errors in previous annual report	If applicable, mandatory	374
	Agency Resource Statements and Resources for Outcomes	Mandatory	320–1
	List of Requirements	Mandatory	369

Competition and Consumer Act requirements

Requirement	Page
Cumulative list of all Commonwealth, state and territory laws that the Commission knows about that authorise things for the purposes of ss. 51(1) of this Act or ss. 51(1) of the Competition Code (as defined in s. 150A).	336–41
The time taken to make final determinations under s. 44V in relation to access disputes	339
The time taken to make decisions on access undertaking applications or access code applications (within the meaning of s. 44B)	339
The time taken to make decisions on applications under ss. 44PA(1)	339
The number of notices given by the Commission under s. 155	340
The number of notices given by the Commission under s. 155A	340
A general description of the nature of the matters in respect of which the notices were given	340
The number of proceedings brought to challenge the validity of the notices	329
The number of search warrants issued by a judge under s. 135Z or signed by a judge under s. 136	340
The number of search warrants issued by a magistrate under s. 154X or signed by a magistrate under s. 154Y	340
A general description of the nature of the matters in respect of which the search warrants referred to in paragraph (ca) or (d) were issued or signed	340
The number of proceedings brought to challenge the validity of the search warrants referred to in paragraph (ca) or (d)	340
The number of entries onto premises under s. 133B or 133C, Division 6 of Part XI or Part XID	340
The number of complaints received by the Commission	116–20
A general summary of the kinds of complaints received by the Commission and how it dealt with them	116–20
A general description of the major matters investigated by the Commission	116–20
The number of times the Commission has intervened in proceedings and a general description of the reasons for doing so	341

Index

A

7-Eleven Stores Pty Ltd see Informed Sources (Australia) Pty Ltd

A Whistle (1979) Pty Ltd (trading as Electrodry) 66, 358

abbreviations 375-7

ACCC Chairman
2014-15 review 2-6

access arrangements 168-9, 171, 339

access determinations 4, 128-9

access disputes 157, 339

access undertakings 123, 157, 162, 339

acquisitions see mergers and acquisitions

ACCC Enterprise Agreement 227

ActewAGL 362-4

Action Telecom see Zen Telecom Pty Ltd

Actrol Parts Pty Ltd 76, 355

Adata Pty Ltd 77, 357

Adjudication Committee 210

Administered revenue 10

Administrative Appeals Tribunal 217

administrative resolutions 30, 60-1, 81

Advanced Medical Institute Pty Ltd 70, 80, 357

advanced metering infrastructure charges
assessment 172

advertising and market research 326

advice 30, 61
cartels 33
consumer protection 61
economic 231-2
scams 68-9

agency resource statement 320-1

AGL South Australia Pty Ltd 64, 355

Agricultural Competitiveness White Paper 5

Agricultural Enforcement and Engagement Unit 5

agriculture and farming
authorisation decisions 46
credence claims 71, 72, 73

Air New Zealand Ltd 32, 353

AirAsia X Berhad 61, 81

airports and aviation
airline-airport negotiations 153
Airport monitoring report 2013-14 123
Airservices Australia price notification 153-4
Badgerys Creek airport 153
car parking 152-3
cartel conduct 32
consumer protection 61
costs, monitoring 152-3
decisions 369
drip pricing 67
false, misleading or deceptive conduct 81
prices, monitoring 152-3
quality of service monitoring program 153
regional air services price notification 154
services, monitoring 152-3

Alpha Talk see Zen Telecom Pty Ltd

AMI Australia Holdings Pty Ltd
(ACN 095238645) 70, 80

analysis 120

anti-competitive agreements 28, 33, 344
banking industry 33
court cases 33-4
energy industry 34
healthcare 34
petrol industry 33, 34
taxi industry 34
travel industry 33
undertakings 34

anti-competitive conduct
cartels see cartels
compliance and enforcement 31
concentrated markets 35
international collaboration 36
measures 31
misuse of market power 34-5
online markets 35

- resale price maintenance 36
- strategy 31
- appeals
 - regulatory decisions, against 169–70
- ASEAN 3, 87–90
- ASEAN-OECD Good Regulatory Practice Conference 88, 89
- assets 9
 - management 237
 - purchasing 238
- Association of Magazine Publishers of Australia 45
- Audit and Finance Committee 211, 213
- Audit notices 113, 341
- Ausgrid 361
- AusNet Services 360
- Australasian Consumer Fraud Taskforce 85–6
- Australia and New Zealand Banking Group Ltd 33, 353
- Australia Post
 - cross-subsidy assessment 158
 - price notifications 158
- Australian Amalgamated Terminals Pty Ltd (AAT) 343
- Australian Arrow Pty Ltd 33
- Australian Brick & Blocklaying Training Foundation 46
- Australian Competition and Consumer Commission (ACCC) 12
 - AER, working with 12
 - compliance culture 16
 - consumer protection 58–9
 - contact details 19, 20–1
 - corporate governance 202–7
 - decision making 16
 - functions 12, 13
 - government expectations 13–14
 - legislative framework 14–15
 - looking forward 5
 - national office 19
 - organisational model 15–16
 - organisational structure 2, 17–18
 - outcome and program structure 17
 - overview of year 3–6
 - purpose 15
 - Regulatory Conference 159
 - reports 91
 - responsibilities 13
 - role 12, 13
 - state and territory offices 20–1
 - values 15
 - website 233–4
- Australian Competition Tribunal 217, 362
- Australian Consolidated Food Investments Pty Ltd (Primo Smallgoods) 43
- Australian Consumer Fraud Taskforce 4
- Australian Consumer Law (ACL)
 - compliance and enforcement priorities 62–80
 - future review 5
 - infringement notices, issuing 16
 - outcome priorities 62–82
 - partnerships 83–5
 - proceedings under 3
- Australian Egg Corporation Limited & Ors 353
- Australian Energy Market Commission (AEMC) 167, 174–5, 182, 190, 195–7
- Australian Energy Regulator (AER) 2, 12, 166
 - ACCC, working with 12
 - Better Regulation* guidelines 5
 - compliance culture 16
 - contact details 19, 20–1
 - corporate governance 207–9
 - decisions 16, 363–7
 - functions 12, 166
 - government expectations 13–14
 - legislative framework 14–15
 - management 210–11
 - national office 19
 - network regulation see network regulation
 - organisational model 15–16
 - organisational structure 17–18
 - outcome and program structure 17
 - overview of year 5

- performance reporting 173
- purpose 15, 166
- Regulatory Conference 159
- reporting 13, 166
- role 12, 166
- state and territory offices 20-1
- tariff assessment 171-2
- values 15
- website 192, 233-4
- Australian Human Rights Commission 217
- Australian Regional Wholesalers Pty Ltd 32
- Australian Seafood Industries 46
- authorisations 44-50, 373
 - agriculture 46
 - anti-competitive conduct 3, 28
 - applications 45
 - building industry 46
 - liquor and gaming industry 45
 - mining industry 46
 - publishing industry 45
 - retail market entry and exit 184
 - review, application for 360
 - seafood industry 46
 - significant decisions 45-7
 - small business 114
 - taxi industry 51

B

- banking
 - anti-competitive agreements 33
- Bannerman, Ron 6
- benchmarking 176
- Bera Foods 73
- Berry, Mark 17, 203
- bid rigging prosecutions 2
- bilateral engagement 87-8
- Billson, Hon. Bruce 12
- Boral Ltd 40
- Boyd, Alexandra 79
- Boyle, Michael 75, 360

- BP Australia Pty Ltd see Informed Sources (Australia) Pty Ltd
- breaches, investigating 16
- Breast Check Pty Ltd (now called PO Health Professionals Pty Ltd) 79, 355
- Bright Choice Australia Pty Ltd 64
- Building Block Model Record Keeping Rule 134
- building industry
 - authorisation decisions 46
 - clay brick joint venture 40
- Bunavit Pty Ltd (trading as Harvey Norman AV/IT Superstore Bundall) 76, 358
- Bundled Service Record Keeping Rules 134
- business continuity 215
- business plans 214
- business systems 237

C

- Cabcharge Australia Limited 34, 346
- Cabcharge cards 2
- Caltex Australia Petroleum Pty Ltd see Informed Sources (Australia) Pty Ltd
- Calvary Health Care Riverina Ltd 34
- campaigns
 - education 105-6
 - targeted 115-16
- car parking
 - services and facilities 152-3
- carbon pricing 75-6
- carbon tax
 - repeal 57, 75-6
- cartels 28
 - airlines 32
 - court cases 2, 32-3
 - education and advice 33
 - energy industry 32
 - mining industry 32
 - motor vehicle industry 33
- Cascade Coal Pty Ltd 32, 353

- case studies
 - authorisation of marketing code of conduct 48
 - authorisation of resale price maintenance 50
 - child restraint safety standards 102
 - clay brick joint venture 40
 - Coles Active Retail Collaboration program 82
 - Coles 'freshly baked' claims 74
 - Competition Law Implementation Program (CLIP) 3, 88, 90
 - consumer rights and extended warranties 78
 - e-cigarette safety claims 100
 - Expedia acquisition of Wotif 42
 - 'free range' eggs 72
 - liquid laundry pods 98
 - maximum fares agreement for taxi operators 52
 - product recall of Infinity electrical cable 96
 - superfast carriage services 140
- cash equities, clearing 158
- Cement Australia Pty Ltd & Ors 353
- Chapman, Christopher 17, 203
- chemical concerns 99
- Chrisco Hampers Australia Ltd 70, 77, 79, 358
- Cifuentes, Cristina 17, 203, 205, 207, 208
- CLA Trading Pty Ltd 70, 358
- Clinica Internationale Pty Ltd & Anor 358
- COAG *see* Council of Australian Governments (COAG)
- coal *see* mining industry
- Coal & Minerals Group Pty Ltd 32
- codes 216
 - audits of code compliance 113
 - Copyright Notice Scheme Industry Code 134
 - Food and Grocery Code of Conduct 4, 112-13
 - Franchising Code of Conduct 4, 111-12
 - Horticulture Code of Conduct 4, 112
 - Port Terminal Access (Bulk Wheat) Code of Conduct 4
 - Telecommunications Consumer Protections Code 133-4
 - voluntary 113
 - Wheat Port Code of Conduct 112, 123
- Coles Supermarkets Australia Pty Ltd 68, 348, 355, 356
 - credence claims 71, 74, 356
 - unconscionable conduct 3, 68, 82, 108-9, 348, 355
- Colgate-Palmolive Pty Ltd & Ors 353
- collective bargaining arrangements 47
 - notifications 373
 - small business 114
- Comcare premiums 324
- committees
 - ACCC 210-11
 - Adjudication Committee 210
 - Audit and Finance Committee 211, 213
 - Communications Committee 210
 - Compliance and Dispute Resolution Advisory Committee 85
 - consultative 225-6
 - Consumer Consultative Committee 116
 - Education and Information Advisory Committee 84-5
 - Enforcement Committee 210
 - Enforcement Committee—Strategic Compliance 210
 - Franchising Consultative Committee 110-11
 - Fuel Consultative Committee 160
 - Health and Safety Committee 211
 - Infrastructure Consultative Committee 160, 210
 - Legal Committee 211, 214
 - Mergers Review Committee 210
 - People and Capacity Committee 211, 214
 - Policy and Research Advisory Committee 85
 - Product Safety Consultative Committee 85
 - Senate Environment and Communications References Committee inquiry 196
 - Small Business Consultative Committee 110

- Workplace Relations Committee 211
- Commonwealth Ombudsman 217
- communication 159–60, 233
 - Communications Committee 210
 - effective 232–6
 - engagement 232–3
 - news releases and speeches 235
 - online 233
 - reports and guides 235
 - small business 236
 - social media 234
- company directors program 220
- comparator websites 66–7
- Compare The Market Pty Ltd 51, 66–7
- compensation claims 324
 - non-compensable claims 324
- competition 2–3
 - enforceable undertakings 30
 - international collaboration 36
 - investigating breaches 16
 - legislation 329–30, 332
 - limited, regulation where 331
 - maintaining and promoting see
 - maintaining and promoting competition (goal 1 ACCC)
 - public competition assessments 39
- Competition and Consumer Act 2010* (Cth)
 - 6, 13, 329, 382
 - enforcement 12
 - section 171(2) reporting requirements 336–8
 - section 171(2) reporting requirements 339–41
- Competition and Consumer (Corded Internal Window Coverings) Safety Standard 2014* 99
- Competition Law Implementation Program (CLIP) 3, 88, 90
- Competition Policy Review 5, 89
- complaints
 - actions 117
 - responding to 117
 - top 10 industries 118
- Compliance and Dispute Resolution Advisory Committee 85
- compliance and enforcement
 - activities 193
 - administrative resolutions 30, 60–1
 - advice 30, 61
 - checks 187
 - compliance reviews 193–4
 - court cases 29, 60
 - culture 16
 - education 30, 61
 - empowering consumers 115
 - energy market 193–4
 - enforceable undertakings 60
 - enforcement action 193
 - Enforcement Committee 210
 - Enforcement Committee—Strategic Compliance 210
 - infringement notices 60
 - legislation 329–30
 - priority consumer law outcomes 62–80
 - product safety 101–5
 - program 1.1 objective 24
 - publicising activities 115
 - quarterly reports 194
 - retail energy sector 187
 - small business sector 108–9
 - tools 29–30, 59–61
 - voluntary industry self-regulation 61
 - water industry specific laws, 143
- Compliance and Enforcement Policy 16
- compliance index 378–82
- Conboy, Paula 5, 17, 203, 207, 208
- concentrated markets
 - anti-competitive conduct 35
 - highly concentrated sectors 68
 - mergers 41, 43
- conflicts of interest 215–16
- Construction Forestry Mining and Energy Union (CFMEU) 34, 354
- consultancy contracts 238–9
- Consumer Affairs Australia and New Zealand 5

- consumer confidence, building 26
 - Consumer Consultative Committee 116
 - consumer guarantees 76
 - court cases 76, 78, 350
 - consumer law, Australian *see* Australian Consumer Law
 - consumer protection 3-4
 - ACCC, role of 58-9
 - compliance and enforcement tools 59-61
 - energy sector 57, 64
 - goal 2 ACCC 25, 57-122
 - Indigenous 4, 58, 77, 79
 - infringement notices 351-2
 - investigating breaches 16
 - legislation 329-31
 - performance summary 121-2
 - priorities, compliance and enforcement 62-80
 - program 1.1 objective 24
 - significant outcomes 57-8
 - telecommunications sector 57, 63
 - undertakings 347-50
 - consumer warranties 58, 76
 - consumers
 - educating 115
 - empowering 115
 - Copyright Notice Scheme Industry Code 134
 - corporate governance 202-9
 - ACCC 202-7, 212
 - AER 207-9, 212
 - reforms 2
 - strengthening 211
 - structure 212
 - Corporate Governance Board 211, 213
 - corporate plans 214
 - corporate services 237-9
 - corporate support 236-9
 - correction of errors 374
 - cosmetics
 - product safety 101
 - cost pass-throughs 172
 - Council of Australian Governments (COAG)
 - 84
 - Energy Council 13, 194, 196
 - Court, Sarah 17, 203, 206
 - court cases 29, 60
 - anti-competitive agreements 33-4
 - carbon pricing 76
 - cartels 2, 32-3
 - consumer guarantees 76
 - consumer protection 63, 64, 71, 73, 79-80
 - credence claims 71, 73
 - energy retailer enforcement 186
 - energy sector 64
 - false, misleading or deceptive conduct 80-1
 - health and medical sectors 79-80
 - Indigenous and vulnerable consumers 77, 79
 - misuse of market power 35
 - resale price maintenance 36
 - small business sector 108-9
 - telecommunications sector 63
 - unconscionable conduct 80
 - unfair contract terms 70
 - Cox, Jim 17, 203, 207, 208
 - credence claims 57, 71-3, 347
 - court cases 71, 73
 - infringement notices 73
 - undertakings 73
 - credit card industry
 - misuse of market power 35
 - CSR Ltd 40
 - Customer Consultative Group 182
- D**
- Dalrymple Bay Coal Chain Coordinator 46-7
 - Darling Downs Fresh Eggs 73
 - Dateline Imports Pty Ltd 104, 358
 - Davies, Robert Paul 109, 360
 - debt collection industry
 - industry analysis and research 4, 53
 - decisions

- electricity distribution 363–5
- electricity transmission 363
- gas transmission and distribution 365
- retail energy market 365–7
- telecommunications 368
- transport 368–9
- water 369
- Derodi Pty Ltd 71, 358
- Dhruv Chopra (Electronic Bazaar) 66, 356
- disability reporting 226–7
- dispute resolution 173
- disqualification orders 360
- diversity 226–8
- DIY safety campaign 106
- Domestic & General Services Pty Ltd 76, 78
- DuluxGroup (Australia) Pty Ltd 358
- E**
- East Coast wholesale gas market and pipeline framework review 196
- ecologically sustainable development 327–8
- economic advice 231–2
- education 30, 61
 - campaigns 105–6
 - cartels 33
 - consumer protection 61
 - empowering consumers 115
 - online 105
 - product safety 105–6
 - resources 183
 - scams 68–9
 - small business 109–10
 - supplier 101
- Education and Information Advisory Committee 84–5
- Electrical Wholesalers Association of Australia Ltd 32
- Electronic Arts Inc (Central Index Key 00007125150) 350
- electronics industry
 - consumer protection 61
 - e-cigarette safety claims 100
 - false, misleading or deceptive conduct 81
 - product recall (case study) 96
- Elgas Ltd 41, 343
- EL2 Professional Development Program 219–20
- employees see staff
- Endeavour Energy 361
- Energy Intermarket Surveillance Group 197
- Energy Made Easy* 5, 26, 64, 166, 179, 181–2, 189, 233
- energy regulation 12
 - benchmarking 176
 - decisions 363–7
 - goal 1 AER 25–6, 167–78
 - network decisions 167–70
 - oversight of network regulation 171–5
 - performance indicators 178
 - stakeholder engagement 177
- energy sector
 - anti-competitive agreements 34
 - cartel conduct 32
 - compliance activity 193–4
 - concentrated markets 41
 - consumer protection 57, 64
 - electricity distribution incentives 173
 - electricity transmission incentives 174
 - Energy Intermarket Surveillance Group 161
 - generator rebidding 195
 - industry analysis and research 53
 - legislative amendments 334–5
 - market development 195–7
 - market efficiency (goal 3 AER) 26, 190–9
 - monitoring and reporting 191–2
 - network regulation see network regulation
 - performance indicators 198–9
 - ramp rate rule change 195
 - regulation see energy regulation
 - retail markets see retail energy markets
 - retailer compliance 186–8
 - significant outcomes 190
- Energy White Paper 196
- EnergyAustralia Pty Ltd 64, 356, 361

enforceable undertakings 30, 60
 enforcement *see* compliance and enforcement
 engagement 232-3
 enquiries, responding to 117
 environmental performance 239
 mandatory reporting 239
 Ergon Energy Corporation Limited 361
 escalation 117
 Essential Energy 362
 ethical standards 215-16
 Eureka Operations Pty Ltd (trading as Coles Express) *see* Informed Sources (Australia) Pty Ltd
 Europcar Australia 70
 exclusive dealing 345
 notifications 3, 47, 373
 exemptions
 deemed 184
 individual 184
 registrable 184
 variation of 185
 Expedia Inc 42
 Express Mobile Services Australia Pty Ltd 109, 347
 external scrutiny 216-17

F

fair trading (goal 2 ACCC) 12, 25, 57-122
 ACCC, role of 58-9
 compliance and enforcement tools 59-61
 infringement notices 351-2
 legislation 329-30
 performance summary 121-2
 significant outcomes 57-8
 undertakings 347-50
 Fair Work Ombudsman 217
 false, misleading or deceptive conduct 80-1
 administrative resolutions 81
 court cases 80-1, 349
 Featherson, Roger 16, 203, 207

Federation Centres 344
 finance 7-10
 administered expenditure 10
 administered revenue 10
 assets 9
 comparative results 8
 developments affecting 240
 expenditure 7, 8-9, 10
 finance services 237-9
 financial performance 239, 240
 financial statements 241-316
 liabilities 9
 operating result 9
 revenue 7, 10
 finance and staffing snapshot 7-10
 First Pacific Company Ltd 41
 Firth, Joanne 79
 Fisher & Paykel Customer Services Pty Ltd 76, 78, 356
 Flight Centre Ltd 33, 354
 Food and Grocery Code of Conduct 4, 112-13
 Food and Grocery Code Regulation inquiry 91
 footwear industry
 credence claims 71
 Foster, Peter 75
 franchising 348
 Franchising Code of Conduct 4, 111-12
 Franchising Consultative Committee 110-11
 fraud control 215
 Free Range Egg Farms 71
 freedom of information 218
 French, Robert 6
 Fuel Consultative Committee 160
 fuel prices 147-9
 anti-competitive agreements 33, 34
 automotive liquefied petroleum gas (LPG) prices 149
 concentrated markets 41
 diesel prices 148

- monitoring 145-50
- petrol monitoring report 2014 146-7
- petrol prices 147-8
- quarterly reports 145-6
- regional fuel market studies 146
- reports and reviews 371
- stakeholders, informing 149-50
- wholesale gas prices 5

G

- gambling
 - online 65
- GlaxoSmithKline plc 342
- glossary 375-7
- goals and strategies 24-6
- goal 1 (ACCC) 24-5, 28-56
 - compliance and enforcement tools 29-30
 - performance study 55-6
 - performance summary 55-6
 - role and powers of ACCC 29
 - significant outcomes 28
 - undertakings 342-6
- goal 1 (AER) 25-6, 167-78
 - performance indicators 178
- goal 2 (ACCC) 25, 57-122
 - ACCC, role of 58-9
 - compliance and enforcement tools 59-61
 - infringement notices 351-2
 - performance summary 121-2
 - significant outcomes 57-8
 - undertakings 347-50
- goal 2 (AER) 26, 179-89
 - AER role in retail markets 179
 - performance indicators 189
 - significant outcomes 179
- goal 3 (ACCC) 25, 123-63
 - functions 124
 - industries and sectors 125
 - performance summary 162-3
 - regulatory objective 124
 - significant outcomes 123
 - strategies 124

- goal 3 (AER) 26, 190-9
 - compliance activity 193-4
 - market development 195-7
 - monitoring and reporting 191-2
 - performance indicators 198-9
 - significant outcomes 190
- goal 4 (ACCC and AER) 26, 202-40
 - corporate governance 202-9
 - strategies 202
- Goodman Fielder Ltd 41
- government
 - independent cost-benefit analysis 138
 - review of regulation 138
 - water industry, advice 143-4
- government liaison 89, 91-2
 - inquiries and reviews 91
- Grain export networks inquiry 92
- grant programs 239
- Grocery Holdings Pty Ltd (referred to as Coles) 68
- GSK Consumer Healthcare

H

- Harper, Professor Ian 5,
- Harper review 35, 196
- health and medical sectors
 - anti-competitive agreements 34
 - consumer protection 58, 79-80
 - industry analysis and research 53-4
 - unconscionable conduct 80
- Health and Safety Committee 211
- Health and Wellbeing Week 224
- Hertz Global Holdings Inc 342
- Hillside (Australia New Media) Pty Ltd
 - trading as Bet365 65, 358
- Hilmer review 35
- Holland Farms Pty Ltd 71
- Homeopathy Plus! Pty Ltd 79, 358
- Horticulture Code of Conduct 4, 112
- Hume Import & Export (Australia) Pty Ltd 73
- Hunter Valley access undertaking 157

I

iiNet Limited 63

incentive schemes 173–4

- electricity distribution 173
- electricity transmission 174
- Victorian fire reduction 174

Independent Liquor Group Distribution Co-Operative Ltd 73, 109

Indigenous consumer protection 4, 58, 77, 79

- court cases 77
- infringement notices 79

industry codes of conduct 4

Infinity Cable Co Pty Ltd 96

Infocentre 116–19

- complaints, responding to 117
- enquiries, responding to 117
- escalation to investigations 117

informal clearance 37

information communication and technology 236–7

information gathering, compulsory

- non-compliance 73, 75

Informed Sources (Australia) Pty Ltd 33, 34, 354

infrastructure

- metering charges assessment 172
- monopoly see monopoly infrastructure
- national see national infrastructure
- privatisation of 3
- regulation 331

Infrastructure Consultative Committee 160, 210

infringement notices 60, 351–2

- credence claims 73
- energy retailer enforcement 187
- energy sector 64–5
- health and medical sectors 80
- Indigenous and vulnerable consumers 79
- small business sector 109
- telecommunications sector 63

inquiries and reviews 91

- parliamentary 89

insurance, private health

- analysis and research 53–4

intelligence 120

International Competition Network 86–7

International Consumer Protection Enforcement Network 89

investigations

- escalation to 117
- telecommunications sector 137–8

InvoCare Australia Pty Ltd 79

InvoCare Ltd 79, 349

IPower Pty Ltd 64

IPower 2 Pty Ltd 64

IT Transformation Program 236

Italiattech Australia Pty Ltd 36, 345

J

Japan Fair Trade Commission 3

JBS USA Holdings Inc 43

Jemena Gas Networks (NSW) Limited 362

Jetstar Airways Pty Ltd 67, 358

judicial decisions 216

K

Kennett, Hon. Jeff 3

Kia Motors Australia Pty Ltd 61, 81

L

Lawrence & Hanson Group Pty Ltd) 32

Le Tian (trading as SavingForAussie) 104, 347

learning and development 220–1

Legal Committee 211, 214

legal and economic services 230–1

legal technology services 231–2

legislative framework 14–15, 329–35

- amendments 332–5

liabilities 9

liquor and gaming industry

- authorisation decisions 45–6
- credence claims 73

litigation matters
see also case studies; court cases
 ACCC 353–60
 AER 360–2
Little black book of scams 69
 Little Company of Mary Health Care Ltd 34, 354
 LivingSocial Pty Ltd 70, 349
 Locaway Pty Ltd 32
 Loyal Coal Pty Ltd 32
 Lucas, Janet 66, 105
 Lux Distributors Pty Ltd 80, 358
 Lyoness Asia Limited 80
 Lyoness Australia Pty Limited 80, 358
 Lyoness International AG 80
 Lyoness UK Limited 80

M

McGuigan, James William 32
 McGuigan, John Vern 32
 Maggie Beer Products Pty Ltd 73, 347
 maintaining and promoting competition
 (goal 1 ACCC) 24–5, 28–56
 compliance and enforcement tools 29–30
 performance study 55–6
 performance summary 55–6
 role and powers of ACCC 29
 significant outcomes 28
 undertakings 342–6
 ‘Make It Safe’ campaign 105
 mandatory reports
 product safety 97
 market analysis 4
 industry analysis and research 53–4
 ‘macro’ studies 4
 market research 235–6, 326
 regional studies 4
 small business communication 236
 stakeholders 236
 market failure, remedying (goal 1 ACCC)
 24–5, 28–56
 compliance and enforcement tools 29–30
 performance study 55–6
 performance summary 55–6
 role and powers of ACCC 29
 significant outcomes 28
 undertakings 342–6
 markets
 concentrated *see* concentrated markets
 emerging 51–4
 highly concentrated sectors 68
 online *see* online markets
 power, misuse of *see* misuse of market power
 meat industry
 mergers and acquisitions 43
 Medicines Australia 48
 mergers and acquisitions 28, 37–43, 372
 building industry 40
 concentrated markets 41, 43
 edible oil industry 41
 informal clearance 37
 inter-conditional merger transactions 41
 meat industry 43
 Mergers Review Committee 210
 pharmaceuticals 41
 pre-assessments 37
 public competition assessments 39
 remedies 39, 342–4
 reviews 3, 38–9
 statement of issues 38
 Mincorp Investments Pty Ltd (formerly known as Voope Pty Ltd) 32
 mining industry
 authorisation decisions 46–7
 cartel conduct 32
 Minister for Small Business 12
 misleading or deceptive conduct *see* false, misleading or deceptive conduct
 misuse of market power 34–5
 court cases 35
 Mobil Oil Australia Pty Ltd 34, 344
 monopoly infrastructure (goal 3 ACCC) 25, 123–63

- functions 124
- industries and sectors 125
- infringement notices 352
- performance summary 162–3
- regulation 4–5, 124, 331
- significant outcomes 123
- strategies 124
- undertakings 352

Mortgage Refunds Pty Ltd 33

motor vehicle industry

- cartel conduct 33
- child restraint safety standards 99, 102
- consumer protection 61
- false, misleading or deceptive conduct 81
- hire cars 70
- product safety 99, 102, 104

Murray-Darling Basin 141–4

- access conditions 142
- access terms 142
- monitoring activities 142
- prices 142
- significant outcomes 141
- water charge rules 5
- water market activities 141–2

N

National Broadband Network (NBN) 4

- see also* telecommunications sector
- determination 123
- information disclosure by NBN Co 139
- migration processes 133
- non-commercial services funding options 138

Over-the-top Services Transition Working Group 160–1

public information on migration campaign 161

Service Continuity Assurance Working Group 161

Services in Operation Record Keeping Rules 135

Special Access Undertaking 130–1

Telstra/NBN Co definitive agreements, renegotiation of 132

transfer working groups 161

National Consumer Congress 84, 116, 183

National Consumer Fraud Week 57, 69, 86, 110

National Electricity Law 14, 166

- amendments 334

National Electricity Rules 14, 166, 334

National Energy Retail Law 5, 14, 166

National Energy Retail Rules 15, 166, 335

National Gas Law 15, 166

- amendments 334

National Gas Rules 15, 334–5

national infrastructure

- see also* transport services
- regulation 151–2, 331

National Roads and Motorists Association (NRMA) 49

Natural Food Vending Pty Ltd 109

network regulation 167–70

- approaches 185
- benchmarking 176
- exemptions 175
- guidelines 169
- oversight 171–5
- policy contributions 175
- stakeholder engagement 177

New Aim Pty Ltd (trading as OzPlaza.Living) 104

news releases and speeches 235

NIB Health Funds Ltd 80

notifications 44–50

- exclusive dealing 3, 47, 373

NRM Corporation Pty Ltd 70, 80

NRM Trading Pty Ltd 70, 80

O

Obeid, Moses Edward 32

Obeid, Paul Edward 32

O'Brien, Peter 75

Office of the Australian Information Commissioner 217

Office of the Merit Protection
Commissioner 217

Oilcode 112

OLEX Australia Pty Ltd 32, 354

OmniBlend Australia Pty Ltd 36, 354

online communication 233, 237

Online Dealz Pty Ltd 66, 105, 359

online markets 35

- comparator websites 66–7
- consumer protection 57, 65–8
- drip pricing 67
- fake online reviews 66
- group buying 67–8
- improving competition and consumer outcomes 51
- parallel imports 68
- Unit Pricing Code 81

online trading 65–6

Organisation for Economic Co-operation
and Development (OECD) 88–9

organisational capability, building 218–19

organisational effectiveness 26

organisational structure 2, 17–18

Origen Energy Electricity Ltd 64, 356–7

Otton, Rick 81

outcome 1 24

- budget expenses and resources 321

P

parallel imports 68

parliamentary inquiries 89

parliamentary scrutiny 217

partnerships 83–92

- Australian 83–6
- bilateral engagement 87–8
- government liaison 89, 91–2
- international 86–9
- Organisation for Economic Co-operation
and Development (OECD) 88–9
- policy developments 86
- regional engagement 88
- working with partners 58

People and Capacity Committee 211, 214

performance audits 217

performance reporting

- framework 24

performance indicators 178, 189, 198

petrol industry see fuel prices

Pfizer Australia Pty Ltd 35, 344, 354

pharmaceuticals

- authorisation of marketing code of
conduct 48
- concentrated markets 41
- credence claims 71
- misuse of market power 35

Pirovic Enterprises Pty Ltd 71, 72, 355

Policy and Research Advisory Committee 85

policy developments 86

Poole, Richard Jonathan 32

Port Terminal Access (Bulk Wheat) Code of
Conduct 4

postal services 158

- reports 371

pricing

- drip 67
- market contracts rule change 182
- methodology guidelines 174
- notifications 154, 158
- retail pricing information guidelines 182
- Unit Pricing Code 81, 112

private health insurance 4

- industry analysis and research 53–4

privatisation

- infrastructure 3

Pro Teeth Whitening (Aust) (PTW) 216

product safety 58, 93–106, 347, 350

- ACCC-initiated safety outcomes 97, 99
- bans 101, 103
- case studies 96, 98
- chemical concerns 99
- compliance 101–5
- education 105–6
- enforcement 104–5

- hazards 94–9
 - mandatory reports 97
 - market surveillance 104
 - partnerships 85
 - recalls 3, 94–6
 - regulation 99–101
 - standards 99, 101
 - Product Safety Consultative Committee 85
 - Product Safety Framework 99
 - program
 - goals and strategies 24–6
 - objectives 24, 25
 - structure 17
 - program 1.1 ACCC
 - budget expenses and resources 321
 - goals 24–5, 26
 - objective 24
 - program 1.2 AER
 - budget expenses and resources 321
 - goals 25–6
 - objective 25
 - project management
 - streamlining 230
 - Prysmian Power Cables & Systems Australia Pty Ltd 32, 354
 - PT Garuda Indonesia Ltd 32, 354
 - public authorisations *see* authorisations
 - public competition assessments
 - mergers 39
 - public interest
 - assessing 47, 49
 - decisions 16
 - public warning notices 360
 - publishing industry
 - authorisation decisions 45
 - purchasing 238
 - pyramid selling 80
- Q**
- 'Quad bike safety: Would you risk it?' 106
 - Queensland Office of Liquor and Gaming Regulation (OLGR) 45
- R**
- rail 157–8
 - decisions 368
 - interstate access undertaking 158
 - real estate industry
 - false, misleading or deceptive conduct 81
 - Real Juice Company Pty Ltd 73, 109
 - Reardon, Shaun 34
 - recalls 94–5
 - case study 96
 - statistics 95
 - Reckitt Benckiser (Australia) Pty Ltd 71, 359
 - Reebok Australia Pty Ltd 71, 357
 - Reeves, Andrew 5, 17, 207, 208
 - refusal to deal 346
 - regional engagement 88
 - regulatory decisions
 - appeals against 169–70
 - Regulatory Economic Unit 159
 - regulatory practices
 - see also* network regulation
 - improving 159–61
 - relationship scams 4
 - remedies
 - mergers 39
 - Renegade Gas Pty Ltd (trading as Supagas NSW) 32, 353
 - reporting 120, 123, 235
 - AER major regulatory reports and reviews 370–1
 - fuel pricing 371
 - postal services 371
 - significant events 191
 - telecommunications 371
 - transport 371
 - water industry 371
 - wholesale energy markets 191
 - resale price maintenance 36, 345
 - authorisation (case study) 50
 - court cases 36
 - retail energy markets

AER role 179

annual compliance report 187

billing benchmarks 181-2

compliance checks 187

compliance guidelines, consultation on 188

consumer education resources 183

consumer engagement 181-3

Customer Consultative Group 182

decisions 365-7

enforcement action 186-7

entry and exit 184-5

hardship policies 180

information 181-3

market contracts rule change 182

monitoring and reporting 180

performance indicators 189

performance reporting 180

retail pricing information guidelines 182

retailer compliance, promoting 186-9

review, submission to 180, 195

significant outcomes 179

website redevelopment 181

retail industry

- consumer guarantees 76, 78
- product safety *see* product safety
- resale price maintenance 36
- unconscionable conduct 80
- Unit Pricing Code 81

Retailer authorisation guideline 184

Retailer of Last Resort (RoLR) scheme 185

revenue constraint methodology 130-1

reviews 196-7

- governance 196
- government 91
- Harper review 35, 196

Rexel Electrical Supplies Pty Ltd 32

Rickard, Delia 17, 203, 204

risk management 215

RL Adams Pty Ltd 73, 359

Ron Bannerman Competition Lecture 6

Ruby Hutchison Memorial Lecture 116

rules

- Building Block Model Record Keeping Rule 134
- Bundled Service Record Keeping Rules 134
- National Electricity Rules 14, 166, 334
- National Energy Retail Rules 15, 166, 335
- National Gas Rules 15, 334-5
- Services in Operation Record Keeping Rules 135
- telecommunications sector 133-5

S

Safe Breast Imaging Pty Ltd 79, 357

Safe Santa campaign 106

Safe Sunnies campaign 106

Safety Compliance Pty Ltd (in liquidation) 81, 359

SalesForce Australia Pty Ltd 64

Samsung Electronics Australia Pty Ltd 61, 81

Scam Disruption Project 4, 69

scams 57, 68-9

Schaper, Michael 17, 203, 205

seafood industry

- authorisation decisions 46

secondary boycott

- prosecutions 2

self-regulation, industry 61

Senate Environment and Communications References Committee inquiry 196

senior executive remuneration 228

SensaSlim Australia Pty Ltd 75, 359

service charter 218

Setka, John 34

Sheffield, Frances 79

Simply Energy 64

Sims, Rod 2, 17-8, 160, 203, 210-2

small business 3-4

- audits of code compliance 113
- authorisations 114
- Codes of Conduct 111-13

- collective bargaining, and 114
 - commercial behaviour, regulation of 107
 - communication 236
 - complaints, responding to 117
 - consumer protection and supporting 58, 107-14
 - decisions 114
 - education 109-10
 - enforcement activities 108-9
 - enquiries, responding to 117
 - escalation to investigations 117
 - franchising contracts 118
 - legislative amendments 113
 - outreach 109-10
 - regulators group 111
 - rights and responsibilities under the Act 107-8
 - voluntary codes of conduct 113
 - small business commissioners 111
 - Small Business Consultative Committee 110
 - Snowdale Holdings Pty Ltd 71, 359
 - Snowy Hydro Limited 361
 - social media 234
 - South East Melbourne Cleaning Pty Ltd 108, 356
 - Southeast Investment Group Pty Ltd 32
 - specialist services 230-2
 - Speed-E-Gas (NSW) Pty Ltd 32
 - Spreets Pty Ltd 66, 68, 357
 - staff 7, 10, 322-3
 - community, giving back to 224-5
 - company directors program 220
 - culture, shaping 225-6
 - development 223-4
 - disability reporting 226-7
 - diversity 226-8
 - employment agreements 228-30
 - enterprise agreement 227-8
 - flexible working conditions 227
 - graduates 223-4
 - learning and development 220-1
 - mentoring 220
 - profile 221-2
 - recruiting 222-4
 - retaining 222-4
 - senior executive remuneration 228
 - skills and abilities, developing 219-21
 - supporting 219-24
 - work environment 224-30
 - work-life balance 228
 - workforce planning 218-19
 - writing skills training 220
 - stakeholders
 - engagement 177
 - forums 187
 - informing 149-50
 - market research 236
 - Standard White Cabs Ltd (trading as Townsville Taxis) 34, 345
 - State of the energy market 2014* 192
 - Statement of Expectations
 - ACCC 13
 - AER 13-14
 - Statement of Intent
 - ACCC 13
 - AER 14
 - stevedoring and shipping 4, 151, 152, 162
 - competition 123, 125
 - container stevedoring monitoring 154-5, 163, 371
 - international liner shipping agreements 155
 - wheat export see wheat export port terminal services
 - strategies 24-6
 - submissions
 - energy market development 195
 - Supabarn Supermarkets Pty Ltd 73, 109
 - Superfast Broadband Access Service 123
 - declaration inquiry 128
- T**
- Targeting scams: Report of the ACCC on scams activity 2014* 69, 86
 - tariff assessment 171-2
 - Tasmanian Farmers and Graziers Association 46

taxi industry

- authorisation of maximum fare agreement 52
- undertakings 34

telecommunications sector

- ACCC telecommunications report 2013–14 135–6
- access determinations 128–31
- agencies, assistance to 138–9
- broadband performance, improving competition 133
- case study—superfast carriage services 140
- codes 133–5
- consumer protection 57, 63
- credence claims 73
- decisions 368
- declaration of services 127–8
- domestic transmission capacity service 129
- enforcement and compliance 137–8
- final access determination inquiries 123, 128–31
- government, assistance to 138–9
- investigations 137–8
- legislative amendments 333
- market structure and equivalence 131–3
- mobile terminating access service 129–30
- National Broadband Network see National Broadband Network (NBN)
- non-price terms 130
- reasonable access 127–31
- regulation 126–40
- reports 371
- rules 133–5
- services review 128–9
- spectrum competition limits 138–9
- stakeholder information 137
- statutory reporting 135–7
- Superfast Broadband Access Service 123, 128

Telko Key see Zen Telecom Pty Ltd

Telstra Corporation Ltd 63, 73

- approved revised Migration Plan 123, 132–3
- compliance report 92
- compliance with retail price control arrangements 2013–14 136
- exchange facilities, access to 135
- Structural Separation Undertaking 131–2, 136–7
- Telstra/NBN Co definitive agreements, renegotiation of 132
- tenders 238

Tiwi Island 4

TMO Sports Pty Ltd 36, 345

Tooltechnic Systems (Aust) Pty Ltd 50

Toys “R” Us Australia Pty Ltd 99, 104–5, 350

- trade marks
 - certification 47, 49

Trade Practices Act 1974 (Cth)

- 40th anniversary 2, 6

transport industry

- airports and aviation see airports and aviation
- decisions 368–9
- infrastructure regulation 152–3
- rail see rail
- reports 371
- stevedoring and shipping see stevedoring and shipping

travel industry

- anti-competitive agreements 33
- mergers and acquisitions 42

tribunal matters 362

U

unconscionable conduct 57

- businesses, protecting 57
- Coles Supermarkets 3, 68, 82, 348, 355
- consumer protection 57, 80

undertakings 342–51, 352

- anti-competitive agreements 34
- credence claims 73
- resale price maintenance 36
- small business sector 109
- third-party access 123

undue harassment or coercion
prosecutions 2

unfair contract terms 57, 69–70
court cases 70
non-court matters 70

Unit Pricing Code 81, 112

Utility Regulators Forum 160

V

values 15, 216

Valve Corporation Pty Ltd 65, 76, 359

Venus Telecom *see* Zen Telecom Pty Ltd

Vertigan review 4

Victoria Quay International RoRo Terminal Pty Ltd 343

Victorian fire reduction incentives 174

Virgin Australia Airlines Pty Ltd 67, 359

Visa Ap (Australia) Pty Ltd 35

Visa Inc. 35, 354

Visa U.S.A. Inc. 35

Visa Worldwide Pte Ltd 35

voluntary industry self-regulation 61

vulnerable persons
consumer protection 4, 58, 77, 79

W

wages
senior executive remuneration 228

Walker, Jill 17, 88, 203, 206

Water Act 2007
review 143

water industry
ACCC Water monitoring report 2013–14
123, 142

advice to government and agencies 143–4

charge rules 5, 143

consultation on issues 161

decisions 369

industry-specific laws, enforcing 143

information requirements 144

legislative amendments 333–4

Murray-Darling Basin *see* Murray-Darling Basin

reports 371

stakeholders, informing 144

waterfront industry *see* stevedoring

We Buy Houses Pty Ltd 81, 359

Westfarmers Kleenheat Gas Pty Ltd 41, 343

wheat export
capacity allocation approvals 157
decisions 368
exemptions 156
legislative amendments 334
port privatisations 157
port reform 157
terminal services 155–7

Wheat Port Code of Conduct 112, 123

Wilmar International Ltd 41

Woolworths Ltd 33, 104, 359
see also Informed Sources (Australia) Pty Ltd

work environment 224–30
culture, shaping 225–6
diversity 226–8

work health and safety
activities 324
compensation claims 324
directions 325
incident statistics 325
investigations 325
management 324
notices 325
outcomes 324–5

workforce *see* staff

Workplace Relations Committee 211

Wotif.com Holdings Ltd 42

Wright, Wayne 77

writing skills training 220

X

XLN Telecom *see* Zen Telecom Pty Ltd

Y

Yazaki Corporation 33, 354
'your rights mob' initiative 4

Z

Zen Telecom Pty Ltd 63, 357
Zoetis Inc 344

