



# PART 1

# YEAR IN REVIEW



## ACCC achievements 2012

- Sustained success in implementing the new Australian Consumer Law (ACL), which has been in effect for 18 months at 30 June 2012, especially in areas where there has been substantial consumer detriment, or where there are practices that are egregious:
  - for the first time, an individual was disqualified from managing companies—the ban is in place for 15 years
  - do-it-yourself teeth whiteners were the subject of the first compulsory product recall issued under the ACL
  - breaches of the ACL have attracted penalties of over \$1 million in six matters.
- A review of the ACCC's enforcement and compliance priorities, resulting in six major priorities that will assist in steering the ACCC's enforcement and compliance work over the medium-term. Those priorities are outlined below, as well as priorities in mergers and acquisitions, and in regulated sectors.
- Extensive work that has laid the foundations for the transition to, and implementation of, the National Broadband Network (NBN), including approving Telstra's Structural Separation Undertaking (SSU), as well as commencing consultation on NBN Co's proposed Special Access Undertaking (SAU).
- Continued vigilance against cartels. The ACCC has been pursuing a number of international airlines for cartel conduct relating to the carriage of air freight. To date, nine airlines have settled proceedings which have resulted in \$58 million in penalties.
- A successful start to the ACCC's role in ensuring businesses understand their obligations in making representations about the impact of carbon pricing.
- The ACCC was made a member of the East Asia Top Level Officials Meeting on Competition Policy (EATOP).
- Being named the Global Competition Review's Agency of the Year—Asia-Pacific, Middle East and Africa. The award recognises the ACCC's creative, strategic and innovative work.
- Continued engagement with the wheat export sector on access arrangements to facilitate the efficient operation of this important sector of the economy.



## 2011–12 Review ACCC Chairman

This year the Australian Competition and Consumer Commission (ACCC) undertook a strategic review of its enforcement and compliance priorities with a view to taking a more proactive approach. The strategic review process involved engagement with state and territory fair trading agencies and consumer and industry representative groups and others in the Australian community.

Our priorities were set having regard to our overarching goal to serve the long-term interests of consumers through enforcing compliance with the *Competition and Consumer Act 2010* (Competition and Consumer Act).

The ACCC sought to identify those areas which we consider are likely to involve substantial detriment to consumers or to competition, and which ought to be given focused attention. We have not prioritised areas where we considered other agencies are likely to be better placed to manage an issue.

I am pleased to report that by the end of the financial year, more than half of the ACCC's investigation and enforcement resources were directed to work in relation to our priority areas that we identified in our compliance and enforcement policy during the strategic review.

### HIGH LEVEL OBJECTIVES AND OUTCOMES

More broadly, the ACCC set five high level objectives for 2012, which were:

- Make full use of the profound changes in the Australian Consumer Law (ACL), including by working more closely with state fair trading agencies.
- Act against widespread consumer detriment with particular focus on vulnerable consumers.
- Maintain or enhance competition in concentrated markets.
- Invigorate the debate on the effective regulation of monopolies.
- Increase the ACCC's engagement internationally, particularly in our region.

#### Make full use of the Australian Consumer Law

This year was the second year of the Australian Consumer Law. The increased range of tools and remedies afforded by the ACL mean that Australia's consumer laws move from a status of lagging the rest of the world to now providing among the strongest protections for consumers and small businesses.

Given the breadth and importance of the changes the ACCC felt it was extremely important that we made full use of the ACL, including the new investigation powers that it provides, enhanced pecuniary penalties, and the protections associated with statutory consumer guarantees.

In the year to 30 June 2012, ACCC activities under the ACL led to:

- More than \$10.7 million in civil pecuniary penalties that were imposed by the Federal Court, illustrating the willingness of the Court to embrace the new penalties provided under the ACL.
- Thirty-four infringement notices issued by the ACCC, with over \$220 000 in penalties paid. Infringement notices—which offer the ACCC a simple, expeditious means of dealing with lesser alleged contraventions—were newly provided in the ACL.
- The banning by the Federal Court of a company director from managing a corporation for 15 years, after it was found that he and the firms he established engaged in false, misleading or deceptive conduct in selling business distributorships. This was the first time these new provisions had been applied by the Federal Court.
- Growing awareness among Australian businesses of their obligations under the law with, for example, Qantas fully recognising its responsibilities to its customers when the airline grounded its fleet in October 2011.
- Productive cooperation between the ACCC and the state and territory fair trading agencies in implementing the ACL which has been key to achieving the benefits of the single law, multi-regulator model.
- Particularly through our education programs, growing awareness among Australian consumers of their statutory right to ask for a repair, replacement or refund if goods or services purchased have problems.
- Audit notices served on 20 franchisors and on nine horticulture traders. The audits are aimed at ensuring the businesses are complying with the requirements of mandatory codes. While most of the businesses were compliant with the relevant code, the audits revealed breaches by a small number of franchisors. These matters are being investigated.

In carbon pricing—where the ACCC is responsible for ensuring businesses make only accurate claims about the impact of the carbon-pricing regime on their pricing—the ACCC has provided extensive advice for businesses and consumers to ensure the law is properly understood.

Several businesses that made claims about the impact of carbon pricing on the price of their goods or services, have provided the ACCC with enforceable undertakings when the ACCC called those claims into question. Another business has paid an infringement notice issued by the ACCC.

## Act against widespread consumer detriment with a particular focus on vulnerable consumers

The ACCC focuses on widespread consumer detriment and the ACCC exercises its discretion to direct resources to the investigation and resolution of matters that provide the greatest overall benefit for consumers.

The ACCC has demonstrated it is not afraid to take on the large corporations, both Australian and multinational, to protect consumers. Several proceedings taken by the ACCC this year have long-term and widespread implications for Australia's competitive landscape:

- **Apple**—The ACCC took prompt remedial action to ensure that one of the world's largest corporations, which had engaged in a large-scale multi-national advertising campaign, could not ignore the provisions of the Australian Consumer Law. The Court warned that 'Those who design global campaigns, and those in Australia who adopt them, need to be attuned to the understandings and perceptions of Australian consumers' and imposed a penalty of \$2.25 million. The case highlighted that consumers must be given accurate information to inform their choices in new technology.
- **Google**—making it clear that Google and other search engine providers using similar technology will be directly accountable for misleading or deceptive paid search results—returning confidence to consumers on line—subject of course now to a High Court appeal by Google.
- **Harvey Norman**—a national retailer which published in catalogues and on its website that 3D TVs were widely available for sale when they were not—illustrates that fine print is not an antidote for misleading and deceptive conduct. The Federal Court imposed a \$1.25 million penalty.

Another area of focus this year has been the energy industry, where rapidly rising prices are causing new activity that can mislead customers. For example, customers are being urged to switch supplier to save money on their bills, but it is often unclear from what base these savings will be made. They may also be offered services to find the best available prices when in fact these services can be promoting supply only from a limited number of companies.

It is extremely important in a market economy that vulnerable consumers are not taken advantage of. The ACCC is aware that some door to door sales practices have a detrimental impact on groups of consumers—including those from non-English-speaking backgrounds, and older people—who are especially vulnerable consumers. The ACCC has commenced proceedings against five businesses, alleging unlawful conduct in door to door sales of energy services. Proceedings have also been initiated against a business that sells vacuum cleaners door to door. These door to door cases remain before the Federal Court at 30 June 2012.

The telecommunications sector remained under close scrutiny. This is because there is increasing complexity of products that brings with it additional ways that consumers can be misled about what they are purchasing. In 2011–12 the Federal Court delivered important findings against advertisements in the communications sector that were held to have misled consumers on what they were getting for their money. On appeal, the full Federal Court ordered Optus to pay \$3.61 million in civil pecuniary penalties for advertising of its various ‘Think Bigger’ and Supersonic broadband internet plans.

When it comes to scams perpetrated against consumers and small businesses, the ACCC’s efforts are best focused on empowering consumers to recognise, avoid and report scams. The number of reports of such scams to the ACCC, mostly from consumers and small businesses, doubled to 83 150 in 2011 compared to 2010. Losses reported to the ACCC were more than \$85.6 million, up about 35 per cent. Nonetheless, 88 per cent of the people reporting scams to the ACCC reported no loss at all, which means consumers recognise the signs of a scam or criminal endeavour. This year the ACCC launched guidelines to support efforts by dating and romance websites to combat scammers. Scams originating on such sites are estimated to have cost Australians more than \$21 million in 2011.

## Maintain and enhance competition in concentrated markets

This year saw pleasing outcomes in relation to some important competition cases.

- **Air cargo**—the ACCC’s biggest investigation ever with over \$58 million in penalties to date for agreements to impose fuel surcharges rather than allowing competition to set the price—still more to come with a trial scheduled for later in 2012.
- **Ticketek**—another one in the series of cases against misuse of market power—heavy sanctions (\$2.5 million) making it clear that market power can’t be thrown around to block new rivals—ensuring that event organisers have more choices in promoting their shows and consumers benefit from access to discount tickets.
- **Woollams**—an important outcome against ‘cover pricing’—a form of bid rigging—in tenders for government construction projects—penalties of \$1.38 million imposed on three building companies—reinforces the ACCC’s ongoing advocacy work for transparency in tender processes.

An important outcome from the ACCC’s strategic enforcement review was a particular focus on concentrated markets.

The Australian economy is characterised by a handful of sectors where the number of suppliers is relatively small. Supermarkets and fuel are among the sectors commonly named in this regard but there are other sectors with the same characteristics. The ACCC must ensure that competition prevails in these markets.

This year the ACCC’s focus on these sectors included:

- ensuring competitive conduct, within the law, in the way dominant firms behave towards firms in the supply chain. This includes inquiries that the ACCC has underway regarding business-to-business supply chain practices in the supermarket sector

- ensuring competitive conduct between firms, specifically ensuring pricing and promotional practices are not to the detriment of competition. Inquiries currently underway include those in the retail fuel market, including what is known as ‘shopper docket’ discounting for petrol
- ensuring that information-sharing between competitors is not for anti-competitive purposes. In this regard, the ACCC has an investigation underway in relation to in the fuel market.

In a high-profile transaction this year, the ACCC decided that it would not oppose FOXTEL’s acquisition of Austar, both firms being major suppliers in the subscription television market. The ACCC’s decision was reached after extensive consideration of the proposed acquisition, and was subject to FOXTEL entering court-enforceable undertakings. The ACCC’s main concern was in the national market for retail subscription television services, particularly in light of the emerging field of internet protocol television (IPTV). The ACCC also had concerns regarding some regional markets for the supply of fixed broadband and fixed voice telephony products, given that FOXTEL is 50 per cent owned by Telstra.

The undertakings that FOXTEL offered, and the ACCC accepted will lower barriers to entry, and promote new and effective competition, in metropolitan and regional telecommunications and subscription television markets.

In another high profile matter, the ACCC assessed the application for authorisation lodged by NBN Co concerning an agreement between NBN Co and Optus for:

- the migration of Optus HFC subscribers to the National Broadband Network (NBN)
- payment by NBN Co to Optus for migrating customers to the NBN
- decommissioning parts of the HFC network
- an obligation on Optus to cease supplying broadband, voice and pay TV services over its HFC network.

After substantial analysis, on 28 May 2012 the ACCC issued a draft determination proposing to authorise the agreement.

In its examination of mergers, the ACCC is also paying close attention to local acquisitions of existing businesses, especially in the hotels and liquor sectors, and also in hardware and fuel. In one such matter, the ACCC considered that the proposed acquisition by Australian Leisure and Hospitality Group of five takeaway packaged liquor retailers in NSW would likely lead to a substantial lessening of competition in the relevant local markets.

## Invigorate the debate on the effective regulation of monopolies

It has been a busy year on the regulatory front.

In February, the ACCC accepted Telstra’s Structural Separation Undertaking (SSU) and migration plan that put in place arrangements for the migration of its services from its fixed line access networks to the NBN. The key element of this was the arrangements for equivalent and effective access by its competitors to Telstra’s wholesale services. The industry is looking to Telstra and, of course, the ACCC to ensure these arrangements work in ways that promote competition. These new arrangements are a key focus area for the ACCC.

The coming financial year will see us establish the next important element of the regulatory arrangements which underpin the operation of the NBN. While work commenced on the initial Special Access Undertaking (SAU) in December 2011, this was suspended in June 2012 to allow NBN Co to continue its discussions with access-seekers regarding the proposed revised SAU. The ACCC expects to receive a revised SAU in the second half of 2012.

There was also an important debate on what and how to regulate that will continue in 2012–13. This year will also see consideration by the Australian Energy Market Commission (AEMC) of the Australian Energy Regulator’s (AER’s) rule change proposals that go to how best to regulate electricity networks.

Looking forward, we also need to debate the role of our Part IIIA provisions in the Competition and Consumer Act relating to access to infrastructure, particularly how relevant they are to greenfield investment such as new railways in the Galilee basin and, say, new inter-modal transport facilities in our capital cities. One key question is whether reliance on the current provisions in the Competition and Consumer Act provides an appropriate regulatory approach or whether some new investment facilities, that are intended to be common user facilities, should be declared up front by governments as open access facilities to provide investor and potential user certainty.

### Increase engagement internationally, particularly in our region

The ACCC has a substantial role to play, as a regulatory agency in the Asia-Pacific region, both in carrying out its domestic responsibilities in Australia, which is a major Asia-Pacific economy, and also in contributing to competition regulation within the region. This is important in at least two different ways.

First, with our counterparts in developed economies, international engagement is important because we need to work together on critical matters and also because we learn from each other's experience. A good example of international cooperation was the work of a number of international competition agencies in combating the airline freight cartel.

Second, in relation to developing countries, particularly in our region, we need to do all we can to help their new competition entities. As we've seen here in Australia, their work can make a profound difference to economic growth.

In an important outcome from our increased regional engagement, the ACCC became a member of the East Asia Top Level Officials' Meeting on Competition Policy. This group meets annually to review developments on competition policy and law, and aims to strengthen cooperation in competition work among East Asian economies.

Next year the ACCC will co-host the Asia-Pacific Consumer Product Safety Symposium in conjunction with the International Consumer Product Health and Safety Organization (ICPHSO). The symposium, which is planned for October 2013 on the Gold Coast, is expected to attract between 200 and 350 participants. Planning is underway already.

## CORPORATE AND FINANCIAL MATTERS

The Australian Government has set out its expectation that agencies operate within existing budgets over the foreseeable future. The government's continuing efficiency dividend means we need to find savings and adjust to reduced resources. To do this we have reviewed the quality and level of spending. Immediate savings are being made in areas including travel expenditure, subscriptions, accommodation and office consumables. This financial year the ACCC reviewed its legal panel arrangements to ensure that it will receive value for money legal services.

In addition, overall net staff numbers are reducing, which means careful choices need to be made about our range of activities. No involuntary redundancies, however, were necessary in 2011–12.

This year the ACCC welcomed Delia Rickard as a Deputy Chair. Delia replaces Peter Kell, who was appointed an Australian Securities and Investments Commission (ASIC) Commissioner. Peter served as an ACCC Deputy Chair from 2008. He was a dedicated and talented advocate of consumer interests at the ACCC and it is pleasing to see him continue the good work at ASIC.

## LOOKING AHEAD

The ACCC has a number of enforcement and compliance priorities over the medium-term. They are:

- acting against conduct impeding emerging competition in online trading
- acting on competition and consumer issues in highly concentrated sectors, in particular supermarkets and fuel
- education and enforcement in relation to cartels
- ensuring carbon pricing representations are accurate and not misleading
- ensuring consumer protection in telecommunications and energy
- raising awareness of the ACL consumer guarantees regime
- providing consumer protection that impacts positively on vulnerable consumers (including Indigenous consumers).

In other areas, close attention to alleged unconscionable conduct, in both business-to-business markets, and business-to-consumer markets, will be a priority for the ACCC. And, as I have said publicly several times, the ACCC will also pay close attention to instances of alleged misuse of market power by firms that have a substantial degree of power in a market.

Education and enforcement action against cartel conduct remains a priority. New education resources—aimed at deepening understanding among businesses as to what a cartel is and how the ACCC's immunity policy operates—have been developed this year. They will be released in the second half of the 2012 calendar year.

One area where I anticipate more debate—in which the ACCC will play a role—is regarding Part IIIA of the *Competition and Consumer Act 2010*, which sets out the National Access Regime for access to monopoly infrastructure. Part IIIA, which was drafted nearly 20 years ago, has produced mixed outcomes. A public debate on the quality of the law, and its results, is already apparent.

I anticipate that the transition to the National Broadband Network and the regulatory demands flowing from it, will remain a priority for the ACCC in 2013 and beyond. The debate around the regulation of Australia's national energy markets is another area where I anticipate the ACCC and AER participating in debates about the quality of regulation and the outcomes.

Overall, the business community, their advisers and consumers should anticipate hearing more from the ACCC in the immediate future. One of our objectives is to provide more high-quality information and advice to assist businesses and consumers to understand their obligations and rights, and to do so by making the most of online and digital channels, as well as conventional media. You will see us in future seeking to explain our role and achievements better, to explain our approach where appropriate and to give our views on relevant competition issues.

Rod Sims  
Chairman  
Australian Competition and Consumer Commission





## 2011–12 Review AER Chairman

2011–12 marked seven years since the AER was established and saw a number of very important milestones reached. The AER has now completed initial network regulatory determinations under the national regulatory framework for all electricity network businesses in the National Electricity Market (NEM), having recently finalised determinations for Powerlink (Queensland transmission network) and Aurora (Tasmanian distribution network). We have reviewed the framework for network regulation, as well as our internal tools, engagement processes and communications.

This reflection resulted in our proposing changes to regulatory frameworks, progressing internal development in regulatory tools and techniques and introducing new ways of engaging with our stakeholders. Many of these changes are still ‘a work in progress’ and form part of our strategic priorities for 2012–13.

In 2011–12 we also concluded our preparation for new roles under the Retail Energy Law—finalising all required guidelines, approving the hardship policies of all retailers, authorising new retailers and developing a website to assist consumers buy and use energy more effectively. These outcomes were achieved in close consultation with consumers, energy businesses, policy makers and other stakeholders.

### **ENSURING NETWORK REGULATION ARRANGEMENTS MEET THE LONG-TERM NEEDS OF ENERGY CONSUMERS**

In September 2011, the AER proposed changes to the national electricity and gas rules aimed at improving the framework for network regulation. The proposal was made to the rule-making body, the Australian Energy Market Commission (AEMC). The proposed changes are intended to promote efficient network investment and advance the long-term interests of consumers. The changes were developed after significant internal examination of how the rules had operated since they commenced in 2006. The AEMC is scheduled to make its decision on our proposed rules in late 2012.

While a robust rules framework is an important part of the process to deliver value for customers now and into the future, the AER also worked throughout the year to develop and improve on regulatory tools and processes. Significant work has been done with the network businesses to develop consistent and robust information gathering tools to allow for greater scrutiny, transparency and comparison of these monopoly businesses. Over time, this information will improve regulatory processes and accountability.

## PREPARATION FOR NATIONAL RETAIL REGULATION

The National Energy Retail Law was scheduled to commence in South Australia, Victoria, Tasmania, Australian Capital Territory, New South Wales and Queensland on 1 July 2012. Throughout 2011–12 the AER, along with customer representatives, businesses, policy makers and other stakeholders worked hard to finalise preparation for the commencement. Significant customer protection components of this work included the approval of all retailers' customer hardship policies, finalising the retailer of last resort scheme and developing a retailer exemption framework that is mindful of consumer protection. In addition, the AER developed a benchmarking tool to assist households compare their electricity usage with similar houses in their area. This information is available to customers through our new web price comparator, developed during 2011–12. This website—Energy Made Easy—will assist residential and small business energy customers to compare all electricity and gas offers generally available to them by entering simple details such as their location and energy usage.

## PROMOTING COMPETITIVE WHOLESALE ENERGY MARKETS

The AER continually monitors and reports on activity in the gas and electricity wholesale markets. We continued to be concerned about the strategic bidding of a number of electricity generators and the impact this behaviour can have on spot prices. While average electricity spot prices fell significantly in most parts of the national electricity market, there were still instances when short-term fluctuations did not reflect underlying costs or supply-demand balance. This has the potential to increase costs for other market participants as they seek to manage greater levels of volatility.

A focus for the AER through 2011–12 was monitoring compliance in the gas short-term trading market (STTM). A high number of data failures by STTM facility operators led the AER to adopt a specific compliance strategy of monitoring, tougher enforcement and education to address these concerns.

Improving the provision of accurate information in the electricity market was also a focus of the AER during the year. In particular the AER was concerned about the quality of information being provided by electricity generators when they were altering their bids. We developed a new monitoring and enforcement strategy and have already observed an improvement in generator behaviour.

## OUTLOOK AND CHALLENGES

Significant rises in energy (particularly electricity) prices in recent years have brought an increased focus on the energy industry, in particular on the regulation of network businesses. This scrutiny will continue.

The AER recognises that it and the energy businesses will need to improve their engagement with their customers to ensure that regulatory processes are properly informed by a clear understanding of what customers value and the services they need. We also want to assist customers interact with energy suppliers in an informed and confident way to get the deals that suit them best. Competitive markets with adequate consumer protection are the best way of meeting consumers' needs. Much of our work over the next year will be aimed at promoting this objective.

## Promoting more effective network regulation

While our proposed changes to the network regulation rules before the AEMC are important, we will also be pursuing other approaches to improve the quality of network regulation. We will also be looking to develop better engagement with customers and businesses in our regulatory processes.

We will be further refining our approach to strengthen incentives for efficiency. This includes use of benchmarking tools. Key benchmarking indicators will be developed in consultation with the industry and stakeholders with a view to applying enhanced analysis to regulatory determinations.

As well, we will be enhancing information requirements on network businesses to improve quality and consistency of data. Good data is the key to improving regulatory processes and performance reporting.

A very important part of the regulatory process is the determination of an appropriate rate of return for each regulated businesses. We will be working to refine elements of our approach to determining the rate of return, taking into account recent Australian Competition Tribunal decisions and the views of stakeholders.

We will be looking to enhance our understanding of new technologies and their role in network service provision, particularly in their role to assist greater customer participation in energy markets. Our participation in the AEMC's Power of Choice review will assist us in being ready to implement changes to the regulation framework that may be required.

## Fostering customer confidence and engagement through our new retail functions

The AER will be focused on improving customer protection and information access in energy markets. We will be working with jurisdictional regulators in those states where the National Energy Retail Law has still to be implemented and will ensure a smooth transition to the new national regime. We plan to strengthen customers' understanding of the new regime and build confidence in the customer protection provided through the new framework. We will continue to work with the ACCC to protect customers from misleading sales practices—online, door to door or through other marketing.

We will raise customer awareness of how to use our new price comparator website—Energy Made Easy—so customers can make better choices about energy suppliers and obtain easy to understand information.

We will work to provide clear, easily understood information in print and online, and seek to improve our strategies to target culturally and linguistically diverse audiences.

## Fostering competition in wholesale energy markets

Market monitoring and reporting in both the electricity and gas wholesale markets will continue to be our primary tool to promote more competitive markets. In particular we will monitor for compliance with the Rules and the exercise of market power and communicate with stakeholders about our findings.

Further, we will assist the ACCC on energy related competition matters, such as market conduct, mergers or the foreshadowed privatisation of generators in NSW, through the provision of expert knowledge and advice.

The role transmission networks play in competitive energy markets will also be an area of work for us during the next year. We will be working to ensure the regulatory arrangements for transmission networks enhance competition in wholesale markets. We will do this by improving the incentives on network businesses to minimise inefficient congestion in the market and by monitoring the application of the regulatory investment test (RIT-T) to ensure network businesses thoroughly explore all alternative options, including generation and demand side management, before constructing new transmission infrastructure.

## CONCLUSION

The past year has seen considerable attention on electricity prices and with a number of reviews in hand, changes in the regulatory framework for network businesses are likely. In addition to these changes, the AER will continue to develop its approach to regulation of monopoly network businesses and engagement with customers to promote the efficient delivery of energy services for consumers today and into the future.

Andrew Reeves  
Chairman  
Australian Energy Regulator

## Finance and staffing snapshot

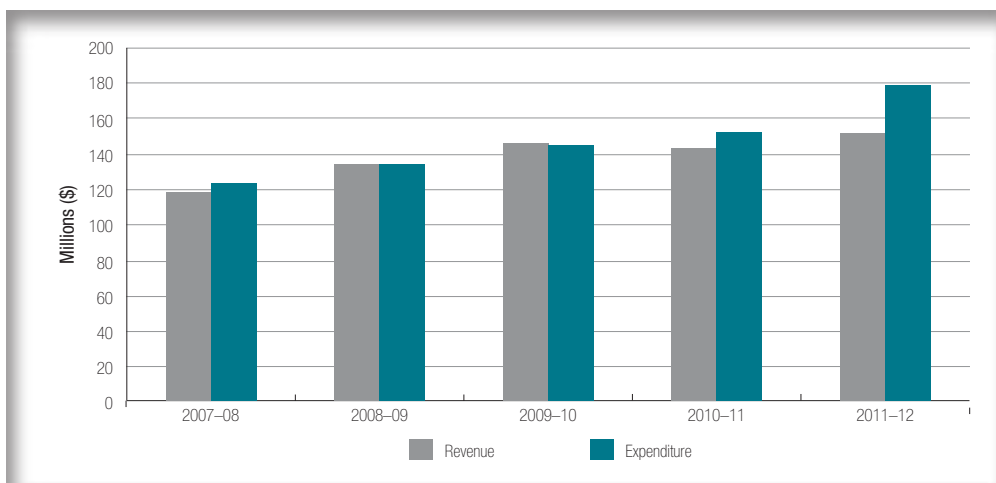
The ACCC received an unqualified audit report on the 2011–12 financial statements from the Australian National Audit Office. These statements can be found in part 5 from pages 192 to 261.

The ACCC's net cost of services for 2011–12 was \$177.5 million, with revenue from government of \$151.3 million, resulting in an operating loss of \$26.2 million. This result was due to higher than expected external legal costs including litigation settlements associated with major cases that the ACCC is pursuing at this time, separation and redundancy charges of \$2.8 million, and unfunded depreciation and amortisation costs of \$4.7 million. Income from government increased by \$9.9 million in 2011–12, reflecting additional funding by the Australian Government for activities associated with the Australian Energy Regulator and Clean Energy Future compliance.

Revenues from other sources increased by \$0.3 million in 2011–12 due to an increase in legal rebate receipts.

Expenditure on ACCC activities increased by \$27.2 million in 2011–12. This primarily related to an increase in employee related expenditures and settlement of litigation costs. A comparison of revenue and expenditure trends over the last five years is illustrated in Figure 1.1 below.

Figure 1.1: ACCC revenue and expenditure



Key financial results for ACCC for the financial years 2009–10, 2010–11 and 2011–12 are shown in the following table.

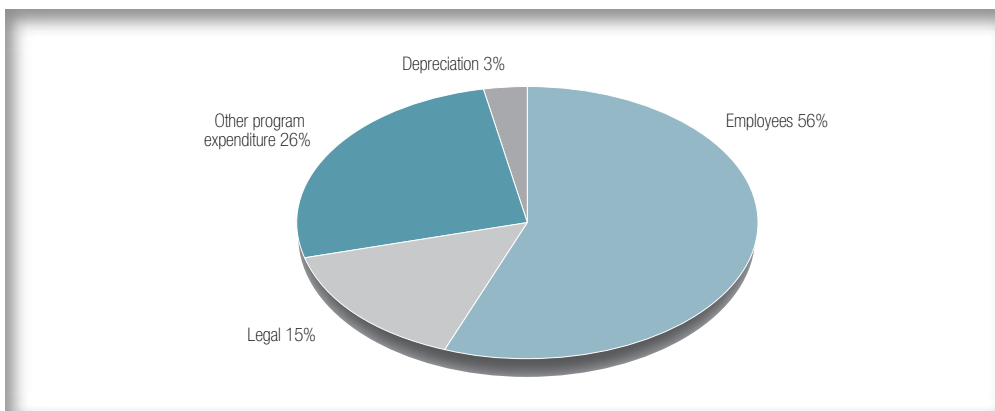
Table 1.1: ACCC comparative financial results, 2009–10, 2010–11 and 2011–12

	2011–12 \$'000	2010–11 \$'000	2009–10 \$'000
Revenue from government—appropriation receipts	151 275	141 342	142 892
Other revenues	1 549	1 176	4 204
Total income	152 824	142 518	147 096
Operating expenses	179 063	151 858	145 664
Comprising expense major categories:			
Employee costs	100 607	81 586	79 009
Legal fees	26 277	25 348	20 890
Other expenses	52 179	44 924	45 765
Net cost of services (expenses less revenues)	177 514	150 682	141 460
Net operating surplus (loss)	(26 239)	(9 340)	1 432
Operating cash balance	1 792	1 626	1 403
Receivables	32 626	51 867	53 908
Total assets	60 619	78 777	79 991
Total liabilities	46 114	40 738	34 936
Total equity	14 505	38 039	45 055
Revenues raised on behalf of the Commonwealth (administered fees and fines)	28 315	43 412	41 564

## Expenditure

The ACCC is a knowledge-based organisation and as such spends approximately 56 per cent of total expenditure on employee costs, as compared to 54 per cent in 2010–11. Legal expenditure is subject to volatility depending on the timing and outcome of litigation proceedings. This resulted in an increase in legal expenditure of only 4 per cent in 2011–12, compared to 21 per cent in 2010–11. Other expenses increased by \$7.3 million or 16 per cent in 2011–12 (mainly due to an increase in settlement of litigation costs). There has been a slight reduction in depreciation and amortisation expenditure over the same period.

Figure 1.2: ACCC expenditure, 2011–12



## Operating statement

The ACCC recorded an operating loss for 2011–12 of \$26.2 million, as compared to an operating loss of \$9.3 million in 2010–11.

## Balance sheet

The ACCC's net assets as at 30 June 2012 totalled \$14.5 million as compared to \$38.0 million in 2010–11.

## Assets

Total assets as at 30 June 2012 were valued at \$60.6 million compared to \$78.8 million in 2010–11, representing a 23 per cent reduction. This reduction in assets primarily relates to a reduction in the Trade and Other Receivables (Appropriations receivable) as a result of cash drawings being used to fund the deficit.

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

## Liabilities

Total liabilities increased from \$40.7 million in 2010–11 to \$46.1 million in 2011–12. The increase was largely due to an increase in employee provisions and accrued wages due as at the end of the financial year (as a result of the timing of the first pay day in July 2012).

## Administered revenue

Revenues administered on behalf of the government during 2011–12 amounted to \$28.3 million, which is a decrease of \$15.1 million from last year (2010–11: \$43.4 million). This amount includes court-imposed fines and costs.

## Administered expenditure

Expenses administered on behalf of the government were \$0.598 million (2010–11 \$0.68 million). This expenditure includes bad and doubtful debt write offs.

## Staffing summary

Table 1.2: Average staffing level

	Budgeted	Actual
2008–09	695	702
2009–10	756	732
2010–11	778	790
2011–12	824	807
2012–13	745	–