



STATEMENT OF PERFORMANCE EXPECTATIONS

OUR PLAN FOR 2016/17



Working to protect and promote the interests of New Zealanders

Commonly used terms

Appropriation	A parliamentary authorisation for Ministers of the Crown or an Office of Parliament to incur expenses or capital expenditure.
Authorisation	Under the Commerce Act, certain agreements and mergers are prohibited as they can lead to anti-competitive outcomes, such as increased prices or lack of choice. However, the Commerce Act recognises that in some circumstances an anti-competitive transaction may lead to sufficient public benefits that would outweigh the competitive harm. In this case the Commission can grant an authorisation for the agreement or merger to proceed.
Base milk price	The term used in the Dairy Industry Restructuring Act 2001 to refer to the farm gate milk price that is set by Fonterra. The farm gate milk price is the price paid by dairy processors to dairy farmers for raw milk. The purchase of raw milk from farmers at the base milk price is Fonterra's largest input cost.
Clearance	Under the Commerce Act, the Commission can grant a clearance for a proposed merger if we are satisfied that it is not likely to substantially lessen competition in a market. We compare the likely state of competition if the merger proceeds with the likely state of competition if the merger does not proceed.
Determination	A formal and binding decision made by the Commission under the legislation it administers.
Information disclosure	Under Part 4 of the Commerce Act (subpart 4), sufficient information is to be readily available to interested persons so that they can assess whether the purpose of Part 4 is being met. Under the Telecommunications Act, regulated telecommunication services are required to make reliable and timely information prescribed by the Commission publicly available so that a wide range of people are informed about their operation and behaviour.
Input methodologies	Upfront regulatory rules, processes and requirements set by us and applying to regulation under Part 4, and for undertaking Part 4 inquiries (eg, rules for valuing assets and calculating the cost of capital).
Merger	A merger is an amalgamation of two or more business enterprises into a single enterprise. Colloquially, mergers also include business acquisitions that involve the acquisition of assets or shares of a business.
Output class	An output class is a grouping of outputs or activities with similar objectives. A reportable class of outputs is a class of outputs the Crown entity proposes to supply in the financial year and that is directly funded (in whole or in part) by the Crown. The Commission's output classes are primarily funded by appropriations from the Crown via the Ministry of Business, Innovation and Employment (MBIE).
Outputs	Goods or services provided by the Commission.
Part 4	Part 4 of the Commerce Act. Under Part 4 of the Commerce Act, the Commission has a role regulating the price and quality of goods or services in markets where there is little or no competition and little prospect of future competition.
Price-quality path	Under Part 4 of the Commerce Act (subparts 9 and 10), non-exempt suppliers of electricity lines services and suppliers of gas pipeline services are subject to default/customised price-quality regulation. A default price-quality path (DPP) is the way the Commission determines appropriate price and quality controls for applicable regulated industries under Part 4 of the Commerce Act. A regulated business can apply for a customised price-quality path (CPP) when they have a specific need that isn't met by the DPP.
Product safety and information standards cases	Investigations of products such as bikes, cots and children's toys that might be unsafe, as well as the incorrect labelling of footwear and clothing, and failure to display required information on motor vehicles offered for sale.
Regulated supplier	A supplier of goods or services regulated under either the Commerce Act or the Telecommunications Act.
Substantially lessen competition	A reduction in competition which is real or of substance, which will be reflected in higher prices or lower quality or service.
UBA	Unbundled bitstream access. Regulated service giving wholesale access to Chorus' Digital Subscriber Line (DSL) full speed broadband service. It allows telecommunications companies to supply broadband services to customers without the need to replicate Chorus' electronics or software.
Vote	A grouping of one or more appropriations that are the responsibility of one or more Ministers of the Crown and are administered by one department.

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LEGISLATION ENFORCED BY THE COMMERCE COMMISSION

Commerce Act	Commerce Act 1986
CCCF Act	Credit Contracts and Consumer Finance Act 2003
DIR Act	Dairy Industry Restructuring Act 2001
Fair Trading Act	Fair Trading Act 1986
Telecommunications Act	Telecommunications Act 2001

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Presented to the House of Representatives pursuant to section 150(3) of the Crown Entities Act 2004.

OVERVIEW

Introduction

The Commerce Commission is New Zealand's competition, consumer and regulatory agency. Our purpose is to achieve the best possible outcomes in competitive and regulated markets for the benefit of New Zealanders.

We are responsible for enforcing laws relating to competition, fair trading, and consumer credit contracts. We also have regulatory responsibilities in the electricity lines, gas pipelines, airport, telecommunications and dairy sectors.

Statement of responsibility

This statement of performance expectations (SPE) is intended to promote our accountability to the public by detailing the Commission's outputs, annual performance measures and prospective financial statements for the 2016/17 year.

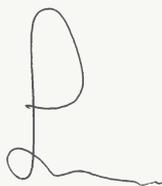
This SPE has been prepared in accordance with section 149C of the Crown Entities Act 2004. The prospective financial statements and non-financial performance measures may not be appropriate for any other purpose and are unaudited.

In the Board's opinion the prospective financial statements and non-financial performance measures contained in this SPE, and the assumptions on which they are based, fairly reflect our expected forecast financial position as at 30 June 2017 and the forecast results of our operations in the 2016/17 financial year.

This SPE is complemented by our Statement of Intent 2016-2020 (SOI), which describes our strategic intentions. The SOI outlines the overall direction of the Commission, our strategic objectives, and how we seek to achieve them.



Dr Mark Berry
Chairman



Graham Crombie
Associate Member



Non-financial performance overview

Competition and consumer

We work to ensure markets are more competitive and consumers' interests are protected.

When businesses compete on their merits and provide accurate information, consumers benefit from improved price, quality and choice.

In order to make markets more competitive and protect consumers' interests, we will continue to:

- make determinations (clearances and authorisations)
- undertake enforcement cases
- educate New Zealanders about the laws we enforce.

Our areas of priority for 2016/17 are:

- continuing our focus on the mobile trader industry
- continuing our focus on high cost short term lenders (payday lenders)
- safeguarding the online trading environment, especially unfair contract terms
- focusing on identified traders through the major trader programme and providing them with information and tools to help raise levels of compliance
- acting promptly on products that might harm public health, including protecting the public from unsafe goods and from goods that make unsubstantiated health claims
- continuing our focus on detecting and deterring domestic cartels, including education for procurers.

Regulation

When competition in a market is limited, consumers may not receive goods and services at the same price and quality as if the market was competitive.

Regulation can help mimic the outcomes seen in competitive markets so that consumers benefit in the long term from efficient investment. The Commission's regulatory activities cover electricity lines, gas pipelines, specified airport services, telecommunications, and dairy markets.

For economic regulation to be effective, we must put in place appropriate incentives for suppliers to deliver outcomes that are for the long-term benefit of consumers. Long-term benefits for consumers are achieved when there is an appropriate balance between prices, quality services, and investment in infrastructure and services.

To ensure the performance of regulated suppliers and markets provides long-term benefits to consumers we can:

- make determinations (set rules which apply to regulated suppliers and markets)
- produce public reports and provide advice to officials
- undertake compliance and enforcement activities.

Our areas of priority for 2016/17 are:

- Telecommunications Act 2001
 - > implementing the government's review of the Telecommunications Act which is scheduled to be completed in 2017
 - > undertaking a section 30R review of the non-price terms of the unbundled bitstream access (UBA) service
 - > having a strong focus on monitoring of telecommunications markets
 - > working on potential deregulation and any other follow up actions (such as updating services) resulting from the 2015/16 statutory reviewing of schedule 1 services.

- Part 4 of the Commerce Act 1986 (Part 4)
 - > reviewing the upfront rules, requirements and processes (also known as input methodologies) which apply to sectors regulated under Part 4
 - > as part of the input methodologies review, reviewing the requirements for requests to amend default price and quality controls to meet the specific needs of a business (customised price-quality path proposals)
 - > reviewing the performance of electricity distributors
 - > undertaking ongoing compliance and enforcement activities
 - > reviewing the information disclosure requirements relating to assessing airports' profitability
 - > setting the 2017 default path for gas distribution and transmission services.

- Dairy Industry Restructuring Act 2001 (DIR Act)
 - > completing the statutory reviews of Fonterra's 2015/16 base milk price calculation and 2016/17 manual.

Major litigation

Across our competition, consumer and regulation work, we litigate cases in court when we consider it is in the best interests of New Zealanders. The major litigation fund is used where cases meet the conditions for using the fund.¹ Our litigation workload can vary considerably each year for various reasons including the number and types of cases we choose to litigate, any appeals we defend, and the complexity of the cases before us.

1. For more details of the conditions for using the major litigation fund, see the Commerce Commission Litigation Funds appropriation in the Estimates document at <http://www.treasury.govt.nz>

Financial performance overview

The Commission expects to receive approximately \$45.9 million in revenue for the 2017 financial year, from a variety of sources. Approximately 60% of our revenue comes directly from the Crown, with 37% from industry levies, and the remainder from interest and third-party revenue.

Beginning this year, the Commission will receive an additional \$3.6 million in Crown funding to better protect consumers and promote competition. The Crown has also provided a \$1 million contingency which is available to the Commission if we need to begin a Part 4 inquiry.

The Commission is budgeting to spend about \$45.8 million in the 2017 financial year, which is an overall increase of \$1.9 million on the 2016 year. This increase is due to the additional Crown funding allowing us to invest more in our competition and consumer space. This increase is offset by decreased regulation spending, as our input methodologies review concludes during the year, and as our dairy expenditure in 2017 reverts to its historic level now we have completed the dairy industry review initiated in June 2015.

In our competition and consumer space we will continue to focus on enforcement activity, particularly in the credit contracts and consumer finance area. We will also be investing further in advocacy and outreach to consumers to inform them of their rights.

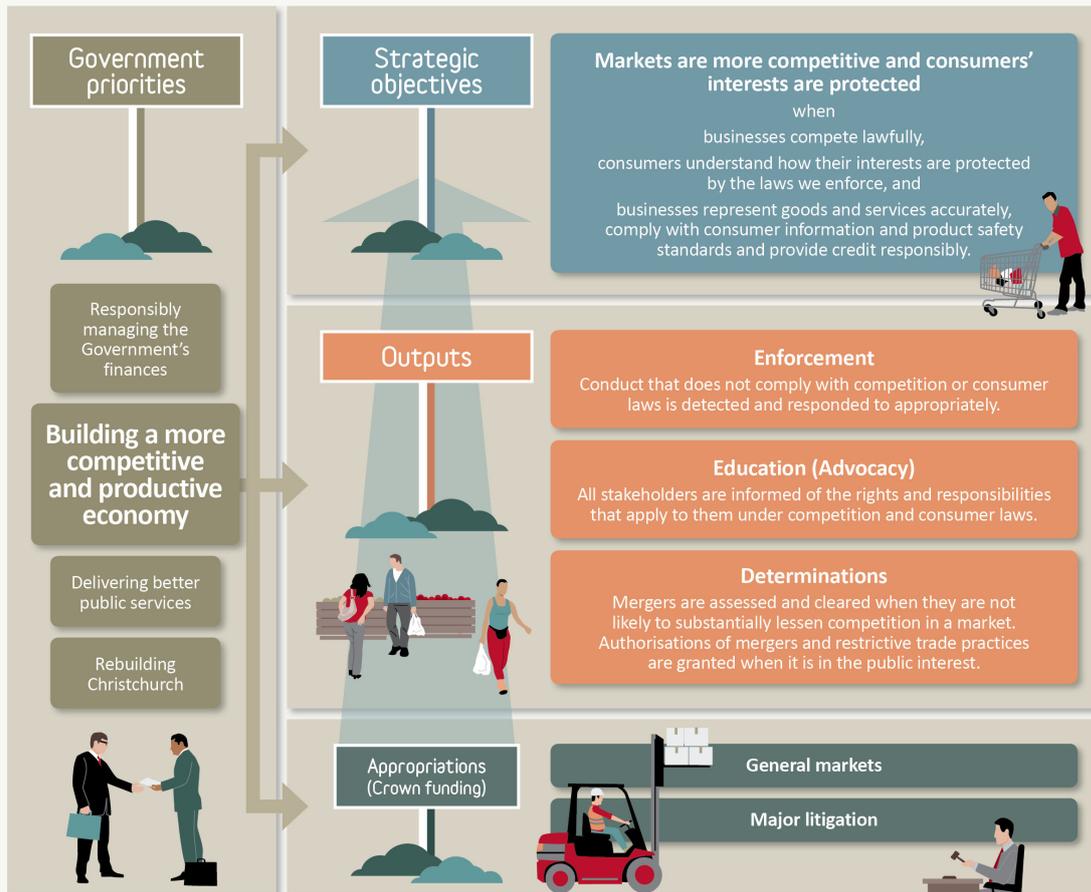
The Commission's reserves are forecast to remain steady over the 2017 year. Equity is budgeted to total \$17.1 million as at 30 June 2017.

We will be continuing our investment in a variety of software projects to further improve the efficiency of our work during the 2017 year. We will also complete capital expenditure on our Wellington premises initiated in the 2016 year to ensure our premises are fit-for-purpose for the 12-year lease term agreed last year.

SERVICE PERFORMANCE

Competition and consumer

Accountability framework



Overview

Our competition and consumer function is responsible for administering and enforcing the Commerce Act, the Fair Trading Act, and the Credit Contracts and Consumer Finance Act (CCCF Act). Through our work we seek to ensure that:

- businesses compete lawfully
- consumers understand how their interests are protected by the laws we enforce
- businesses represent goods and services accurately, comply with consumer information and product safety standards, and provide credit responsibly.

Outputs

Our key outputs in the competition and consumer area are:

Determinations

Under the Commerce Act, businesses can apply to the Commission for a clearance or authorisation when they wish to merge with another firm or undertake a restrictive trade practice. A clearance is granted when a merger does not substantially lessen competition in the market. An authorisation is granted when a merger or restrictive trade practice is anti-competitive but ultimately benefits New Zealand consumers. Clearances and authorisations offer businesses protection from legal action under the Commerce Act.

Enforcement matters

The Commission investigates potential breaches of competition and consumer laws. We focus on assessing complaints we receive as well as detecting issues proactively. We use an enforcement response model to determine the appropriate response to take at the end of an investigation.² These responses include sending a compliance advice or warning letter, issuing an infringement notice, undertaking a settlement which may include court enforceable undertakings, or filing court proceedings. The number of matters we investigate each year depends on the number and type of complaints we receive, our priorities for the year, and the level of our non-discretionary workload.

Education (Advocacy)

As well as undertaking enforcement activities, the Commission aims to proactively inform businesses and consumers of their rights and responsibilities under competition and consumer laws. This includes producing fact sheets and guidelines, engaging with stakeholder groups, and contributing to industry publications. Where we see emerging issues or identify areas of concern, we target our efforts in these sectors.

We also use our knowledge and experience to provide advice and expert input to policy makers and Parliament on policy development and legislative reviews.

What we intend to achieve

This output class is intended to achieve more competitive markets and ensure consumers' interests are protected.



2. For more details of our approach to enforcement, see our Investigation Guidelines and Enforcement Response Guidelines at <http://www.comcom.govt.nz/the-commission/commission-policies/>

How performance will be assessed in 2016/17

We will use the following measures to determine our progress towards our strategic objectives (outlined in our accountability framework and SOI).

	Actual 2014/15	Estimated actual 2015/16	Target 2016/17
Measuring our strategic objective			
The percentage of businesses and consumers that are confident that the Commission is appropriately enforcing the legislation we are responsible for increases over time	N/A - new measure in 2016/17	N/A - new measure in 2016/17	Survey to be conducted by MBIE to set baseline
The percentage of businesses and consumers that are aware of/understand our role and powers relating to the Acts we enforce increases over time	N/A - new measure in 2016/17	N/A - new measure in 2016/17	Survey to be conducted by MBIE to set baseline
The percentage of businesses who receive more than one enforcement response over 3 years decreases as a result of our interventions	Commerce Act: 1% CCCF Act: 7% Fair Trading Act: 22%	Results available at year end	Achieved
Measuring our outputs			
Number of clearance applications processed (demand driven)	14	14	10-22
Number of authorisation applications processed (demand driven)	1	1	0-4
Percentage of decisions on merger clearance applications made within 40 working days from date of registration ³	N/A - new measure in 2016/17	N/A - new measure in 2016/17	75%
Average number of working days from date of decision to date of publication of reasons for declined clearance applications	33.5 days	N/A - no declines	10 days
Number of Commerce Act matters completed	13	6	6-20
Number of Fair Trading Act matters completed	281	240	175-300
Number of product safety and information standards matters completed	129	80	75-150
Number of CCCF Act matters completed	40	45	50-100
Percentage of investigations decided within 12 months of the investigation being opened	95%	90%	95%

3. This measure will include a 'stop the clock' provision. The criteria for stopping the clock will be:
- requests from the merger or third parties for further time to respond to information requests if this would cause delay to our investigation
 - time spent assessing divestment undertakings, or
 - if the review of the merger by another jurisdiction(s) is causing delays to our investigation.

Financial information

Our competition and consumer work is primarily funded by the Crown, through the Vote Business, Science and Innovation: Enforcement of General Market Regulation appropriation.

We also receive revenue which funds this work from third party application fees, interest revenue, cost awards from successful litigation cases, and cost recovery of shared corporate services.

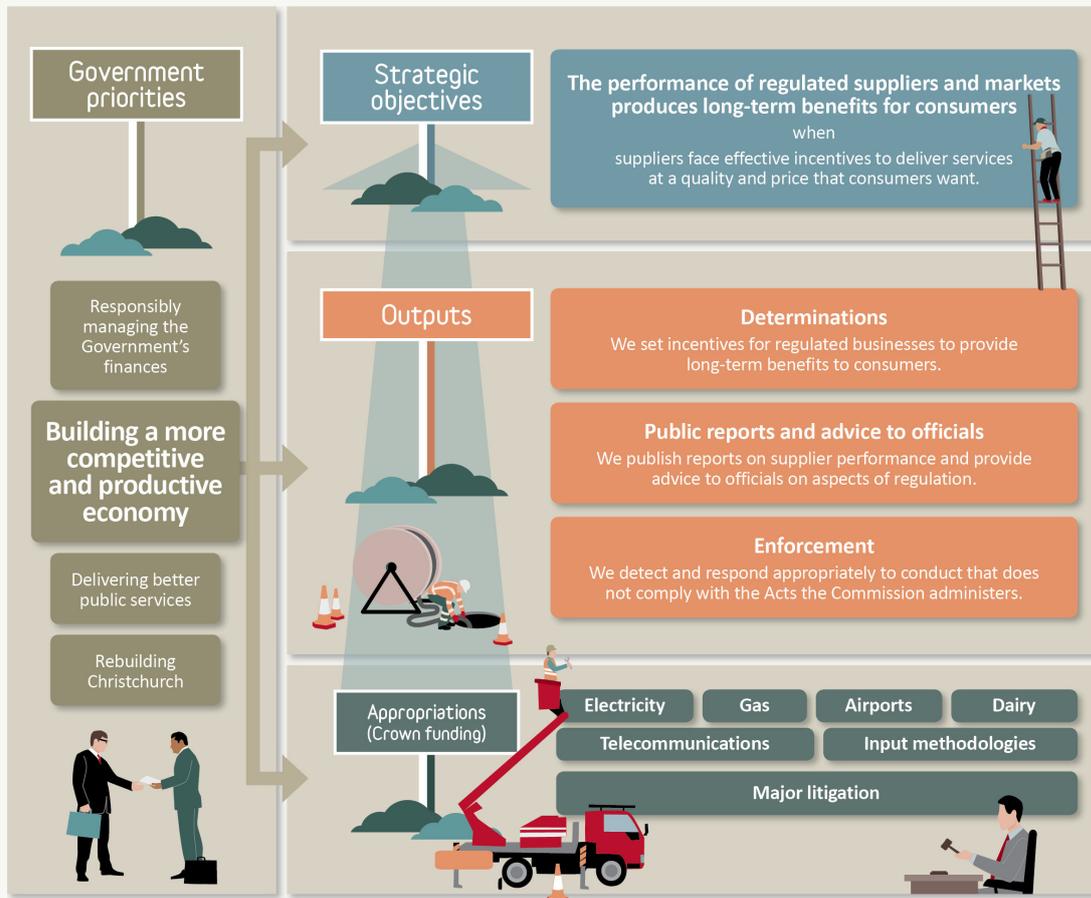
Competition and consumer

	2016 Budget \$000	2017 Budget \$000
Operating revenue		
Crown revenue	13,935	17,485
Other revenue	1,051	1,004
Total operating revenue	14,986	18,489
Operating expenses		
Determinations	3,000	3,984
Enforcement cases	9,433	11,240
Advocacy	2,552	2,999
Reports to ministers	577	263
Total operating expenses	15,562	18,486
Surplus/(deficit)	(576)	3



Regulation

Accountability framework



Overview

As well as ensuring general markets are competitive and consumers' interests are protected, we have responsibility for the regulation of specific sectors where competition is limited and there is little or no prospect of future competition.

Under Part 4 of the Commerce Act, we regulate the supply of electricity lines, gas pipeline services, and specified airport services (at Auckland, Christchurch and Wellington international airports). We also administer the Telecommunications Act and have monitoring, enforcement and adjudication roles under the Dairy Industry Restructuring Act.

Outputs

Our key outputs in the regulation area are:

Determinations

Under Part 4 of the Commerce Act, the Telecommunications Act, and the Dairy Industry Restructuring Act, the Commission has quasi-judicial functions and makes determinations to support the operation of regulated markets and services. Determinations are formal and binding decisions and cover a range of activities, for example:

- setting and enforcing price-quality paths (which specify maximum revenue or maximum prices, and quality standards)
- determining the terms of supply of regulated telecommunications services (designated access and specified services), at the request of an access seeker or access provider.

The Commission also determines input methodologies for services regulated under Part 4. Input methodologies were first determined by the Commission in December 2010. This involves setting and reviewing the upfront rules, requirements and processes which apply to the regulation, or proposed regulation, of goods or services under Part 4 of the Commerce Act. The purpose of input methodologies is to promote certainty for suppliers and consumers.

Part 4 requires the Commission to review each input methodology no later than seven years after its date of publication and, after that, at intervals of no more than seven years. We are currently reviewing input methodologies and intend to complete this work by December 2016.

Public reports and advice to officials

We create incentives for suppliers to achieve long-term benefits for consumers by providing analysis and commentary on supplier and market performance. This information allows public recognition of good performance as well as the exposure of poor performance, which can put pressure on suppliers to focus on the long-term benefit of consumers in their planning and performance (if this is not already occurring).

We also conduct inquiries under Part 4 of the Commerce Act and provide advice to government on whether particular goods or services should be regulated.

Compliance and enforcement

As well as setting determinations, the Commission is responsible for the overall compliance of suppliers with regulation. We continue to proactively provide guidance and education on regulatory requirements and compliance advice to suppliers. When required we undertake investigations into the cause of breaches and take appropriate enforcement action.

What we intend to achieve

This output class is intended to achieve long-term benefits for consumers from the performance of regulated suppliers and markets.



How performance will be assessed in 2016/17

We will use the following measures to determine our progress towards our strategic objectives (outlined in our accountability framework and SOI).

	Actual 2014/15	Estimated actual 2015/16	Target 2016/17
Measuring our strategic objective			
New Zealand's position in OECD ranking improves for fixed broadband services (connections per 100 of the New Zealand population)	N/A - new measure in 2015/16	Achieved	Achieved
Maintain or improve NZ's position in OECD ranking for cost of a basket of telecommunications services purchased by an average consumer: <ul style="list-style-type: none"> fixed line⁴ mobile 	N/A - new measure in 2016/17	N/A - new measure in 2016/17	Achieved
An increase in New Zealand's average broadband download speed	N/A - new measure in 2016/17	N/A - new measure in 2016/17	Achieved
Breaches of quality standards by businesses reduce over time ⁵	N/A - new measure in 2016/17	N/A - new measure in 2016/17	Achieved
Measuring our outputs			
Number of determinations (includes determinations, clarifications, reviews and amendments)	Total: 30 Telecommunications: 2 Gas: 10 Electricity: 15 Airports: 3 Dairy: 0	Total: 27 Telecommunications: 6 Gas: 9 Electricity: 9 Airports: 3 Dairy: 0	Total: 20-29 Telecommunications: 3 Gas: 9-11 Electricity: 5-10 Airports: 3-4 Dairy: 0-1
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	Gas: 100% Electricity: 100% Airports: 100%	Gas: 100% Electricity: 100% Airports: 100%	Gas: 100% Electricity: 100% Airports: 100%
Average time to complete telecommunications determinations	4 months	4 months	6 months
Average time taken to complete dairy determinations	N/A – no determinations	N/A – no determinations	120 working days
Number of reports completed (monitoring reports, summary and analysis reports, information disclosure reports)	Total: 7 Telecommunications: 2 Gas: 1 Electricity: 1 Airports: 1 Dairy: 2	Total: 12 Telecommunications: 3 Gas: 2 Electricity: 2 Airports: 2 Dairy: 3	Total: 6-16 Telecommunications: 1-3 Gas: 1-2 Electricity: 2-7 Airports: 0-2 Dairy: 2
All input methodologies (other than the Transpower capital expenditure input methodology) are reviewed by the end of 2016/17 ⁶	N/A - new measure in 2016/17	N/A - new measure in 2016/17	Achieved

4. This is a basket of broadband and voice services

5. Quality standards are determined under price-quality regulation and apply for non-exempt electricity distribution, electricity transmission and gas pipeline businesses

6. We have set a later timeframe for the Transpower capex IM as this was determined later than, and separately from, the other IM's and has recently been amended

Financial information

Our regulation work is primarily funded by the Crown through five appropriations, with our work under Part 4 of the Commerce Act funded by three multi-year appropriations each with an initial 5-year term.

Vote Business, Science and Innovation:

- Economic Regulation of Electricity Lines Services 2014-2019 (multi-year appropriation)
- Economic Regulation of Gas Pipeline Services 2014-2019 (multi-year appropriation)
- Economic Regulation of Specified Airport Services 2014-2019 (multi-year appropriation)
- Enforcement of Dairy Sector Regulation and Auditing of Milk Price Setting
- Enforcement of Telecommunications Sector Regulation.

We also receive revenue for this work from cost recoveries for shared corporate services, and cost recoveries for specific determinations applied for by third parties.

Consolidated financial information for our regulation area is shown below, along with sector-specific financial information. For the sectors funded by multi-year appropriations, we have also provided graphs showing the proportion of the Crown funding we plan to draw down in 2016/17.

Consolidated Regulation finances

	2016 Budget \$000	2017 Budget \$000
Operating revenue		
Crown revenue	18,405	17,136
Other revenue	367	560
Total operating revenue	18,772	17,696
Operating expenses		
Determinations	11,686	11,273
Compliance and enforcement	2,022	998
Public reports and advice to officials	5,064	5,425
Total operating expenses	18,772	17,696
Surplus	0	0

Telecommunications

	2016 Budget \$000	2017 Budget \$000
Operating revenue		
Crown revenue	6,000	5,487
Other revenue	311	503
Total operating revenue	6,311	5,990
Operating expenses		
Determinations	3,889	2,295
Compliance and enforcement	484	190
Public reports and advice to officials	1,938	3,505
Total operating expenses	6,311	5,990
Surplus	0	0

Dairy

	2016 Budget \$000	2017 Budget \$000
Operating revenue		
Crown revenue	1,694	753
Other revenue	6	3
Total operating revenue	1,700	756
Operating expenses		
Determinations	24	24
Compliance and enforcement	36	36
Public reports and advice to officials	1,640	696
Total operating expenses	1,700	756
Surplus	0	0

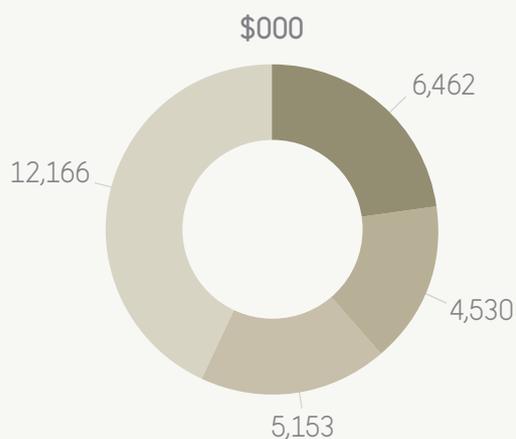
Input methodologies

	2016 Budget \$000	2017 Budget \$000
Operating revenue		
Crown revenue	3,170	1,722
Other revenue	15	8
Total operating revenue	3,185	1,730
Operating expenses		
Determinations	3,185	1,730
Total operating expenses	3,185	1,730
Surplus	0	0

Electricity lines services

	2016 Budget \$000	2017 Budget \$000
Operating revenue		
Crown revenue	5,211	5,153
Other revenue	25	26
Total operating revenue	5,236	5,179
Operating expenses		
Determinations	3,001	3,700
Compliance and enforcement	1,200	640
Public reports and advice to officials	1,035	839
Total operating expenses	5,236	5,179
Surplus	0	0

Crown funding used and available between 2014/15 and 2018/19:



Economic regulation of electricity lines services for the period 2014-2019	\$000
Original appropriation	28,311
2014/2015 Actual	6,462
2015/16 Estimate	4,530
2016/17 Budget	5,153
Estimated appropriation remaining	12,166

- 2014/15 Actual
- 2015/16 Estimate
- 2016/17 Budget
- Remaining funding (2017/18-2018/19)

Natural gas pipeline services

	2016 Budget \$000	2017 Budget \$000
Operating revenue		
Crown revenue	1,906	3,477
Other revenue	8	18
Total operating revenue	1,914	3,495
Operating expenses		
Determinations	1,353	2,983
Compliance and enforcement	243	134
Public reports and advice to officials	318	378
Total operating expenses	1,914	3,495
Surplus	0	0

Crown funding used and available between 2014/15 and 2018/19:



Economic regulation of natural gas pipeline services for the period 2014-2019 \$000

Original appropriation	9,684
2014/2015 Actual	1,398
2015/16 Estimate	2,044
2016/17 Budget	3,477

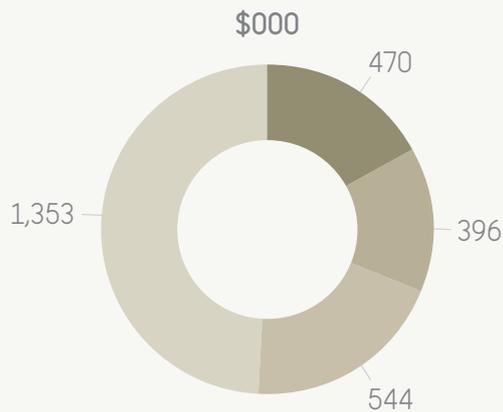
Estimated appropriation remaining 2,765

- 2014/15 Actual
- 2015/16 Estimate
- 2016/17 Budget
- Remaining funding (2017/18-2018/19)

Airport services

	2016 Budget \$000	2017 Budget \$000
Operating revenue		
Crown revenue	424	544
Other revenue	2	2
Total operating revenue	426	546
Operating expenses		
Determinations	222	529
Compliance and enforcement	71	10
Public reports and advice to officials	133	7
Total operating expenses	426	546
Surplus	0	0

Crown funding used and available between 2014/15 and 2018/19:



Economic regulation of airport services for the period 2014-2019

	\$000
Original appropriation	2,763
2014/2015 Actual	470
2015/16 Estimate	396
2016/17 Budget	544

Estimated appropriation remaining 1,353

- 2014/15 Actual
- 2015/16 Estimate
- 2016/17 Budget
- Remaining funding (2017/18 – 2018/19)

Major litigation

Overview

The Commission uses a broad range of tools, including education and advocacy, to achieve widespread public understanding of the law, protection of consumers and compliance by traders. However, the Commission may take enforcement action if it is the most appropriate course of action. The major litigation fund is used where we believe this is likely to achieve the most effective outcome and where cases meet the conditions for using the fund. We undertake litigation across both our competition and consumer and our regulation functions.

Litigation may also be an appropriate course of action where we are seeking to establish or develop precedent.

What we intend to achieve

This output class is intended to achieve the best possible outcomes for New Zealanders in competitive and regulated markets by enabling the Commission to undertake major or complex litigation where appropriate.

How performance will be assessed in 2016/17

The litigation fund will be used in accordance with the conditions for using the fund.

The Commission does not set specific performance measures and targets on the outputs and outcomes of litigation so as to avoid perverse incentives. This helps to ensure the fund is used in the best interests of New Zealanders. In addition, our litigation workload varies considerably each year based on:

- the number and types of cases we choose to litigate
- any appeals we defend
- the complexity of the cases we have before us
- the court timetables
- the parties' approaches towards settlement.



Financial information

Major litigation is funded by the Crown out of the multi-category appropriation Vote Business, Science and Innovation: Commerce Commission Litigation Fund. The internally-sourced litigation category is used to meet the costs of resourcing litigation from our internal capability, while the externally-sourced litigation category is used to meet the external direct costs of resourcing major litigation activity. For our internally-sourced litigation, we also receive revenue from shared services cost recoveries.

	2016 Budget \$000	2017 Budget \$000
Externally-sourced litigation		
Operating revenue		
Crown revenue	6,538	6,238
Total operating revenue	6,538	6,238
Operating expenses		
Competitive markets	3,990	4,314
Fair Trading Act	1,541	1,181
CCCF Act	296	443
Regulation	300	300
Total operating expenses	6,127	6,238
Surplus	411	0

Internally-sourced litigation

Operating revenue		
Crown revenue	3,423	3,405
Other revenue	23	22
Total operating revenue	3,446	3,427
Operating expenses		
Competitive markets	2,005	1,725
Fair Trading Act	750	1,151
CCCF Act	332	384
Regulation	359	167
Total operating expenses	3,446	3,427
Surplus	0	0

PROSPECTIVE FINANCIAL STATEMENTS

Statement of significant underlying assumptions

The prospective financial statements are presented on pages 22-28 on the basis of existing government policies, in consultation with our oversight ministry, the Ministry of Business, Innovation and Employment. Because these prospective financial statements are forward-looking, we made some assumptions about our work and funding. The prospective financial statements should be read with these assumptions in mind.

We have made the following significant underlying assumptions in preparing the prospective financial statements:

- The Commission's functions will remain broadly the same as in the previous year.
- Crown revenue received by the Commission is consistent with the 2016/17 Estimates of Appropriations.
- We will not commence any Part 4 inquiries during the year.
- We have based our expected expenditure on major litigation activities on our estimate of the timing and extent of court hearings for existing and expected litigation cases. If delays, settlements, or significant other litigation matters arise from Commission cases, then expenditure on major litigation will change, favourably or unfavourably, for the year.
- A significant portion of our work is reactive, based on requests from ministers or the public, and on complaints we receive. In preparing the prospective financial statements, we have assumed that some activity (particularly in our competition and consumer work) will occur at a level in line with historical activity.

The Commission has adopted these assumptions as at 2 June 2016.

Prospective financial statements

Statement of prospective comprehensive revenue and expense for the year ended 30 June 2017

	2016 Budget \$000	Estimated	2016 actual \$000	2017 Budget \$000
Operating revenue				
Revenue from non-exchange transactions				
Crown revenue	42,301		39,183	44,264
Court cost awards	50		70	50
Total revenue from non-exchange transactions	42,351		39,253	44,314
Revenue from exchange transactions				
Fees and recoveries	50		124	526
Interest	860		898	800
Other revenue	481		863	210
Total revenue from exchange transactions	1,391		1,885	1,536
Total operating revenue	43,742		41,138	45,850
Operating expenses				
Members and personnel	28,496		27,412	28,880
Legal and other professional fees	10,490		8,602	10,569
Computer, information, and information technology	566		600	878
Occupancy	1,693		1,698	1,832
Depreciation and amortisation	1,025		1,071	1,741
Other expenditure	1,637		1,826	1,947
Total operating expenses	43,907		41,209	45,847
Surplus/(deficit)	(165)		(71)	3
Total comprehensive revenue and expense for the year	(165)		(71)	3

Statement of prospective changes in equity for the year ended 30 June 2017

	2016 Budget \$000	Estimated	2016 actual \$000	2017 Budget \$000
Balance at 1 July	16,684		17,177	17,106
Comprehensive revenue and expense				
Surplus/(deficit)	(165)		(71)	3
Total comprehensive revenue and expense	(165)		(71)	3
Transactions with owner				
Repayment of reserves to the Crown	0		0	0
Total transactions with owner	0		0	0
Balance at 30 June	16,519		17,106	17,109

Statement of prospective financial position as at 30 June 2017

	2016 Budget \$000	Estimated actual	2016 actual \$000	2017 Budget \$000
Equity				
General funds	13,519		14,106	14,109
Litigation costs reserve	3,000		3,000	3,000
Total equity	16,519		17,106	17,109
Current assets				
Cash and cash equivalents	3,796		2,907	1,917
Fees and recoveries receivable	270		385	385
Short-term investments	14,000		15,000	13,000
Prepayments	315		320	325
Total current assets	18,381		18,612	15,627
Non-current assets				
Property, plant and equipment	2,891		3,304	4,254
Intangibles	2,841		2,253	4,041
Total non-current assets	5,732		5,557	8,295
Total assets	24,113		24,169	23,922
Current liabilities				
Creditors and other payables	1,162		1,326	1,520
Accrued expenses	1,937		1,200	650
Crown funding repayable	607		1,027	1,289
Penalties and cost awards held in trust	50		50	50
Employee entitlements	2,312		2,158	2,182
Total current liabilities	6,068		5,761	5,691
Non-current liabilities				
Provision for reinstatement of lease occupancy	33		33	33
Lease incentives	1,493		1,269	1,089
Total non-current liabilities	1,526		1,302	1,122
Total liabilities	7,594		7,063	6,813
Net assets	16,519		17,106	17,109

Statement of prospective cash flows for the year ended 30 June 2017

	2016 Budget \$000	Estimated actual 2016 \$000	2017 Budget \$000
Cash flow from operating activities			
Crown funding received	42,908	40,210	45,553
Fees and recoveries received	625	2,864	786
Receipts and payment of penalties (net)	0	(504)	0
Interest received	860	946	800
Member and employee payments	(28,360)	(27,098)	(28,806)
Supplier payments	(12,718)	(12,765)	(15,486)
Repayment of Crown funding	(2,427)	(3,870)	(1,027)
Goods and services tax (net)	(119)	17	19
Net cash inflow/(outflow) from operating activities	769	(200)	1,839
Cash flow from investing activities			
Investment receipts/(deposits)	4,000	4,000	2,000
Property, plant and equipment purchases	(2,629)	(2,674)	(2,234)
Intangible assets purchases	(1,527)	(1,024)	(2,595)
Net cash inflow/(outflow) from investing activities	(156)	302	(2,829)
Cash flow from financing activities			
Repayment of reserves	0	0	0
Net cash inflow/(outflow) from financing activities	0	0	0
Net increase/(decrease) in cash and cash equivalents	613	102	(990)
Opening cash and cash equivalents	3,183	2,805	2,907
Closing cash and cash equivalents	3,796	2,907	1,917

The GST (net) component of operating activities reflects the net GST paid and received from the Inland Revenue Department. We have presented the GST (net) component on a net basis, as the gross amounts do not provide meaningful information for financial statement purposes.

We have presented receipts and payment of penalties and cost awards as a net item because the Commission holds these funds in trust in accordance with agreements.

Statement of accounting policies

for the year ended 30 June 2017

Reporting entity

The Commerce Commission is a Crown entity (as defined by the Crown Entities Act 2004), established under the Commerce Act 1986, and operating solely within New Zealand. The ultimate parent (or controlling entity) of the Commission is the New Zealand Crown.

The Commission's main objective is to provide services to the New Zealand public, instead of making a financial return. We provide public services to meet our responsibilities under the Commerce Act 1986, the Fair Trading Act 1986, the Dairy Industry Restructuring Act 2001, the Telecommunications Act 2001, and the Credit Contracts and Consumer Finance Act 2003.

We are a public sector public benefit entity (PBE) for the purposes of the Accounting Standards Framework issued by the New Zealand External Reporting Board, because we are a public entity as defined in the Public Audit Act 2001. As a Tier 1 public sector PBE, we are required to report in accordance with Tier 1 PBE Accounting Standards.

Measurement base and statement of compliance

We have prepared these prospective financial statements to comply with the requirements of the Crown Entities Act 2004. We prepared these financial statements on a historical cost basis for a going concern to comply with New Zealand generally accepted accounting practice (GAAP), which includes the PBE accounting standards which apply for a public sector PBE. The Commission authorised the financial statements for issue on 2 June 2016.

The prospective financial statements comply with PBE FRS 42 – Prospective Financial Statements. We are required to prepare a statement of performance expectations, including prospective financial statements, at or before the start of each financial year to promote public accountability. The prospective financial statements may not be appropriate for any other purposes.

We have prepared the prospective financial statements on the basis of the best estimates and assumptions as to future events that we expect to occur. As the financial statements are prospective, actual results will vary from the information presented. We will disclose and explain all material variations in the subsequent annual report.

Functional and presentation currency

The Commission's functional currency is the New Zealand dollar, so we have presented these financial statements in New Zealand dollars (rounded to the nearest thousand).



Significant accounting policies

We have applied the significant accounting policies that significantly affect the measurement of comprehensive revenue and expenditure, financial position and cash flows consistently for all reporting periods covered by these financial statements, including the comparative (prior year budget and estimated actual) information. The following are the significant accounting policies.

Revenue – Revenue is measured at the fair value of consideration (eg, cash) received or receivable. We earn revenue from providing specific services (known as outputs) for the Crown, for services (such as clearances, authorisations, or customised determinations) to other third parties, court cost award recoveries and interest income.

Crown revenue – The Commission receives funding via appropriations from the Crown. Crown revenue is a form of non-exchange transaction, because there is no direct relationship between the services we provide (funded through taxation and levies) and the general public we ultimately provide the services to. Our appropriations are restricted in their use to the purpose of meeting the Commission’s objectives and the scope of the relevant appropriations. Crown revenue we receive but do not spend is refunded to the Crown after year end for all output classes except Vote Commerce – General Markets, which the Commission is allowed to retain as reserves. Also, we may retain specific ring-fenced revenue provided to build up our ability to meet the cost of adverse cost awards.

Revenue from the Crown is initially recognised as a liability when received, and then as revenue when we have provided services which entitle us to the funding.

Expenditure – All expenditure we incur in providing services for the Crown or other third parties is recognised in the statement of comprehensive revenue and expense when an obligation to pay arises on an accruals basis.

Foreign currency transactions – Transactions in foreign currencies are converted into the Commission’s functional currency (New Zealand dollars) at exchange rates on the dates of the transactions. Monetary liabilities in foreign currencies at the reporting date are converted to New Zealand dollars at the exchange rate on that date.

Leases – The Commission is party to various operating leases as a lessee. As the lessors retain substantially all of the risk and rewards of ownership of the leased property, plant and equipment, the operating lease payments are recognised as expenses only in the period in which they arise. Any lease incentives received or obligations to reinstate the condition of leased premises are recognised in the statement of comprehensive revenue and expense over the term of the lease. At balance date, any unamortised lease incentive and outstanding obligation for reinstatement is recognised as a liability.

The Commission does not enter into, and is not allowed to enter into, any finance leases.

Depreciation and impairment – Depreciation (and amortisation for intangible assets) is provided on a straight-line basis on all assets to allocate the cost of the asset (less any estimated residual value) over its useful life. The residual values and remaining useful lives of property, plant and equipment components are reviewed at least annually. All property, plant and equipment are subject to an annual test of impairment to test the recoverable amount. Any impairment losses are recorded as an expense in the statement of comprehensive revenue and expense in the period in which they are first identified. The estimated useful lives of the major asset classes are:

Computer and office equipment	3-4 years
Furniture and fittings	Up to 5 years
Leasehold improvements	For the period of lease
Motor vehicles	Up to 5 years
Software and other intangible assets	Up to 5 years



Taxation – The Commission is exempt from income tax under section CW 38 of the Income Tax Act 2007.

Cost allocation – Direct costs are charged directly to outputs. Personnel costs are allocated to outputs based on time records. The indirect costs of support groups and corporate overhead costs are charged to outputs based on the budgeted relative time records of each output.

Goods and services tax – All items in the financial statements are presented exclusive of GST, except for receivables and payables, and unearned Crown revenue received in advance, which are presented on a GST-inclusive basis. Where we cannot claim a portion of GST, we recognise the GST portion as part of the related asset or expense.

The net amount of GST recoverable from, or payable to, the Inland Revenue Department (IRD) is included as part of receivables or creditors in the statement of financial position, and classified as an operating cash flow in the statement of cash flows.

Equity – Equity is the Crown’s ownership interest in the Commission and is measured as the difference between total assets and total liabilities. We have classified equity into components and disclosed these separately to allow clearer recognition of the specified uses that we have for our equity.

Cash and cash equivalents – Cash and cash equivalents are our cash on hand, transactional cash balances in bank accounts, and some term deposits with maturities of less than 90 days held with New Zealand registered banks.

Investments – Investments are term deposits issued by New Zealand registered banks with maturities of more than 90 days. Term deposits are initially measured at fair value plus any transaction costs. After initial recognition, investments are re-measured at amortised cost using the effective interest rate method.

Property, plant and equipment – All items of property, plant and equipment owned are recorded at historical cost of purchase, less accumulated depreciation and any impairment losses. An item of property, plant and equipment acquired in stages is not depreciated until the item of property, plant and equipment is in its final state and ready for its intended use. Any later expenditure that extends the useful life or enhances the service potential of an existing item of property, plant and equipment is also capitalised and depreciated.

All other costs we incur in maintaining the useful life or service potential of an existing item of property, plant and equipment are recognised as expenditure when incurred. Any gain or loss arising from the sale or disposal of an item of property, plant and equipment is recognised in the period in which the item is sold or disposed of.

Intangible assets – Computer software that is not integral to the operation of the hardware is recorded as an intangible asset, less accumulated amortisation.

Employee entitlements – Employee entitlements are unpaid salaries, bonuses, and annual leave which we owe to our personnel. At balance date, any unpaid employee entitlements are recognised as a liability and charged as an expense. Entitlements are calculated on an actual entitlement basis using current salary rates.

Contingencies – As the Commission is a quasi-judicial body, it is engaged in litigation activity which may result in costs being ordered against or in favour of the Commission. The outcome of an order for costs may not be certain until all appeal processes are completed. Therefore the possibility of a costs award being incurred or received is disclosed firstly as either a contingent liability or a contingent asset respectively. An award for costs, whether for or against the Commission, is only recognised in the statement of comprehensive revenue and expense when it is probable that there will be a payment or receipt of resources (eg, cash) and we can measure the amount reliably.

Comparatives – To ensure consistency with the current year, all comparative information, including the prior year budget, has been restated or reclassified where appropriate. The budget comparatives are those approved by the Commission at the beginning of the prior year for inclusion as prospective financial statements in our last statement of performance expectations. The estimated actual is our current expectation of the outcome for the financial year prior to the budget presented in this statement of performance expectations. We prepared the budget to comply with GAAP, and used accounting policies consistent with what we have used to prepare these financial statements.

Changes in accounting policies

The accounting policies adopted are consistent with the previous year.



Financial statements glossary

The following table provides definitions for some terms used in our financial statements. Please note that these definitions are only provided as a help to readers, and are not part of the financial statements, nor do they necessarily reflect the way we interpret and apply accounting standards.

Accounts payable	Debts owed to somebody (eg, a company) for goods or services provided to us that we have not yet paid at balance date.
Accounts receivable	Debts owed to us by somebody (eg, a company) for a service we have provided where we have not been paid at balance date.
Asset	An asset is something that we own, expect to receive in the future, or control.
Amortisation	Amortisation is basically the same as depreciation (see below), except it is applied to intangible assets (eg, software).
Balance date	The date at which a set of accounts is prepared. For the Commission, that date is 30 June of each year.
Cash equivalents	Cash equivalents are assets like term deposits which share most of the characteristics of cash. They are cash equivalent because we can quickly turn them into cash, but they are technically not cash in a bank account or in the hand.
Comprehensive revenue and expense	Comprehensive revenue and expense is a broader concept of revenue which includes a surplus (or loss) from an entity's operations, and movements in parts of equity that aren't the result of surpluses or owner transactions. An example is a revaluation gain on the value of assets, which increases equity by increasing the value of an asset revaluation reserve.
Current asset (or liability)	A current asset is an asset that can be converted into cash or used to pay a liability within 12 months. A current liability is a liability that we expect to repay within 12 months.
Depreciation	Depreciation is the charge of an asset's cost over a certain time period. Depreciation recognises that assets decline in their value and usefulness over time.
Equity	Equity represents the value of an entity to its owners, and is the amount left over after deducting all liabilities from all assets. It is also known as net assets.
Exchange transactions	Exchange transactions are transactions where goods or services are received in exchange for payment of approximately equal value. The vast majority of transactions in everyday life are exchange transactions.
Financial instruments	Financial instruments are assets or liabilities that are tradable in some way, such as cash, shares or loans. Other financial instruments include 'derivatives', which are traded securities that get their value from an underlying asset (like a future oil shipment or a future foreign currency purchase).
Generally accepted accounting practice (GAAP)	GAAP is short-hand for the series of standards, interpretations and concepts that are followed by accountants. NZ GAAP is defined by law to include standards issued by the External Reporting Board and, where that (or a specific law) does not cover a matter, accounting policies considered authoritative by the accounting profession in New Zealand.
Going concern	An assumption made by an entity that it will continue to operate into the foreseeable future. If this is incorrect, then the entity has to prepare its accounts as if it was being wound up.
Intangible assets	Intangible assets are assets that do not have a physical substance, and are not cash.
Liability	A liability is something we owe, expect to pay in the future, or may have to pay in the future.

Monetary assets	Monetary assets are assets that are cash, or will become cash in a short time frame (eg, bank account balances, term deposits, accounts receivable).
Monetary liabilities	Monetary liabilities are debts owed to another party, such as accounts payable, loans or unpaid salaries.
Non-current asset (or liability)	A non-current asset is an asset that we cannot ordinarily turn into cash within 12 months. A non-current liability is a liability that we would not ordinarily have to repay within 12 months.
Non-exchange transactions	Non-exchange transactions are transactions where goods or services are received, but there is no direct payment for those services. Taxes paid to the Government, and then passed on to a public sector agency like the Commission to fund services, are a form of non-exchange transaction.
Provision	An estimate of an amount that an entity may (or will) have to pay as a result of an obligation the entity has to another party.
Public benefit entity (PBE)	An entity that aims to provide goods or services to the general public to meet a specific need, rather than to make a profit for its owners.
Public sector	Government departments, local and regional councils, Crown entities such as the Commission, and other agencies that are part of the government.
Related party	Another person or entity that is related to us because of, for example, a common owner or person in a position of authority (eg, director, senior management).
Statement of cash flows	A statement that shows how much cash we have received from various sources (investments, operating activities, cash injections received from the Crown) and cash payments we have made. (expenses, salaries, repayment of money to the Crown).
Statement of comprehensive revenue and expense	A statement that shows our surplus or deficit from our operating activities, plus or less any movements in non-owner equity items (see comprehensive revenue and expense above). This is the public sector equivalent of a statement of comprehensive income, which we used to prepare.
Statement of financial position	A statement that shows what assets we own or control, what liabilities we have, and the remainder (equity) at the balance date.

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