



ANNUAL REPORT

2018





CONTENTS

Welcome from the Chairman	2	Financial performance	49
Welcome from the Chief Executive	4	Financial statements overview	49
Year in review	6	Statement of responsibility	51
Our role	8	Independent auditor's report	52
Our performance story this year	9	Financial statements	55
Performance against our strategic objectives	10	Statement of accounting policies	59
Strategic objective 1: markets work well	10	Notes to the financial statements	62
Strategic objective 2: businesses and consumers are confident market participants	15	Financial statements glossary	80
<i>Consumers are confident market participants</i>	15		
<i>Businesses are confident market participants</i>	18		
Performance against our strategies	22		
Strategy 1: seize opportunities to have the greatest impact	22		
Strategy 2: protect, inform and empower consumers and businesses	26		
Strategy 3: trusted, influential and high-performing	30		
<i>Working efficiently</i>	31		
<i>Being a good employer</i>	32		
<i>Evaluating our capability and health</i>	33		
Measuring our outputs	35		
Competition and Consumer	35		
Regulated industries	38		
Major litigation	43		
Our governance	45		
Board and Commissioner responsibilities	45		
Decision making	45		
Governance of the organisation	45		
Managing risk	45		
Health and safety	45		
Conflicts of interest	45		
Ministerial directions	45		
Commission Member profiles	46		
Senior Leadership Team profiles	48		

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Welcome from the Chairman

As New Zealand's competition, consumer and regulatory agency we play a crucial role in ensuring New Zealand's markets are competitive, consumers are well informed and protected, and industries with little or no competition are appropriately regulated. I am pleased to present our annual report for 2017/18, which details our progress towards making New Zealanders better off, by ensuring markets work well and consumers and businesses are confident market participants.

Retail telecommunications

Retail telecommunications was a priority focus area for the Commission throughout the year. We sought to encourage retailers of telecommunications services to change their conduct using a range of tools at our disposal. This included warning a number of providers for conduct likely to breach the Fair Trading Act and filing charges against Vodafone in April 2018 and Spark in July 2018. To improve our understanding, we launched studies including into mobile markets and fibre networks. We also took more of a consumer focus, including launching our enhanced Measuring Broadband New Zealand programme to help consumers choose the best broadband for their homes.

Consumer work

This was a year of precedents for the Commission across our consumer work. In our consumer credit work, we continued to prioritise cases to protect vulnerable consumers. We filed our first case relating to compliance with the Lender Responsibility Principles against payday lender Ferratum. We also succeeded in getting the High Court to clarify that peer-to-peer lender Harmoney's platform fee is a credit fee under consumer credit laws.

In our Fair Trading Act work, we achieved our first conviction for making unsubstantiated representations against Fujitsu about its heatpumps. We also achieved record fines against 123 Mart of \$337,000 in a product safety case, Mobile Shop Ltd of \$330,000 in a mobile trader case, and Budget Loans of \$720,000 in a case about misrepresenting its repossession rights.

Competition cases

Our work in merger clearances and authorisations continues to touch on many aspects of the economy. During the year we granted six merger clearances and one authorisation. We declined two clearances, including Vero's application to buy Tower in already highly concentrated personal insurance markets.

Our decision to decline the NZME/Fairfax merger has stood up to scrutiny in the High Court and Court of Appeal. The appeal rulings confirmed we have jurisdiction to consider detriments beyond those that can be economically quantified and we can consider the wider public benefits and detriments when assessing merger authorisation applications.

We have increased our surveillance and enforcement relating to non-notified mergers that may substantially lessen competition, with investigations into First Gas and Fulton Hogan, proceedings filed against Wilson Parking, and a resolution in our proceedings against Platinum.

We have also filed proceedings alleging cartel conduct in the supply of milk testing products and services and herd management systems, and against a Nelson pharmacy and its directors for price fixing.

Regulatory maturity for energy networks and airports

We had a heavy regulatory workload in 2017/18, especially in the electricity sector. We approved a \$1.27 billion major network upgrade for Powerco, and a \$31 million earthquake readiness plan for Wellington Electricity under customised price-quality paths. We also completed draft pricing reviews for Auckland and Christchurch International Airports and continued our work to make the performance of regulated utilities more accessible. Overall, we are seeing good levels of investment across regulated industries. This is reflected in an improved regulatory framework score from Standard & Poor's. In April 2018, the ratings agency revised its score for the regulation of electricity and gas networks upwards from 'strong/adequate' to 'strong' – the same rating as Australia and the United Kingdom.

Helping with policy development

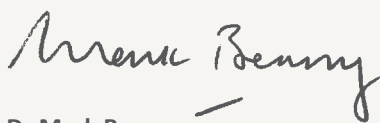
Over the past year, we have contributed significantly to policy development to help ensure the legislation we enforce is workable and effective. We have also been busy behind the scenes making sure we have the resources, people, processes and systems in place to implement any amended laws. In particular, we are preparing to implement a proposed competition studies regime and a new regulatory framework for fibre networks.

Changing of the guard

In May 2018 we welcomed Adrienne Meikle as our new Chief Executive. Adrienne comes to us from the Ministry of Business, Innovation and Employment, where she was Deputy Chief Executive for the Corporate, Governance and Information Group. Adrienne's extensive strategic leadership skills and her significant experience in the state sector, legal and regulatory worlds are already proving to be an invaluable mix of skills for the Commission.

Adrienne takes over from Brent Alderton who departed the Commission in early 2018 after 9 years with us. People were at the heart of what Brent worked to achieve. He was instrumental in developing our culture through his leadership style, lifting the capability of staff, and working on the organisational strategy this annual report measures progress against.

I would also like to acknowledge Associate Commissioner Graham Crombie who finished up with the Commission in December 2017. Graham made a significant contribution, especially in the consumer and credit space. I wish Graham and Brent all the best for the future.



Dr Mark Berry
Chairman



Welcome from the Chief Executive

Kia ora tatou

In May 2018 I took up the role of Chief Executive at the Commission. We have many functions, powers and duties to enable markets to operate well and to support consumers and businesses to operate confidently within them. It is our vision that New Zealanders are better off as a consequence of our work, whether that is in relation to responsible lending, unlawful trade practices, merger clearances, or regulating quality standards and revenue limits for certain monopoly industries.

Five year strategy

Over the past year, we began implementing our 5-year strategy which was launched in October 2016. This strategy is focused on our vision of making New Zealanders better off. In 2017/18 we have aligned many of our activities with the strategy and incorporated the strategy into our planning and public accountability documents. We have also used the strategy as a way of seeing the Commission's different functions and the different roles it plays, as contributing to one high-level outcome. This has led to new ways of measuring and reporting performance and supported prioritising our activities for maximum effect in addressing harm in a manner consistent with our strategic direction.

Priorities

This was the first year we proactively published specific priority areas for focusing our activity and resources for the year ahead. The priorities included retail telecommunications, responsible lending, claims that consumers cannot easily verify (like 'Made in New Zealand' or 'organic'), and improving transparency in merger clearances. They also included gaining a greater understanding of the performance of infrastructure industries and making performance information about regulated utilities more accessible to those who wished to see and use it. We have made real progress in these priority areas over the past year, which is reflected throughout this annual report.



Connecting

We continue to explore new ways of engaging with businesses and consumers. This includes increasing our use of infographics, quick guides, animations and video content and boosting our presence on social media channels. We have also entered new territory this year, experimenting with pop-up ads in video games as part of our 'Getting a Loan' campaign. In regulation, we launched an online data visualisation tool to make performance information about electricity distributors more accessible.

Most significantly, over the past year, we have been busy building a new website to make it easier for businesses and consumers to get the information they need. For consumers, this includes more practical information about typical situations they may find themselves in, like buying event tickets online or borrowing money. The new website also features an improved search function, a central case register bringing together all our current registers in one place, and new one-stop shop project pages. The website is a significant communications channel for us, receiving more than a million page views each year. With a user centric layout and content, we hope the new website is accessed and used by even more New Zealanders.

People

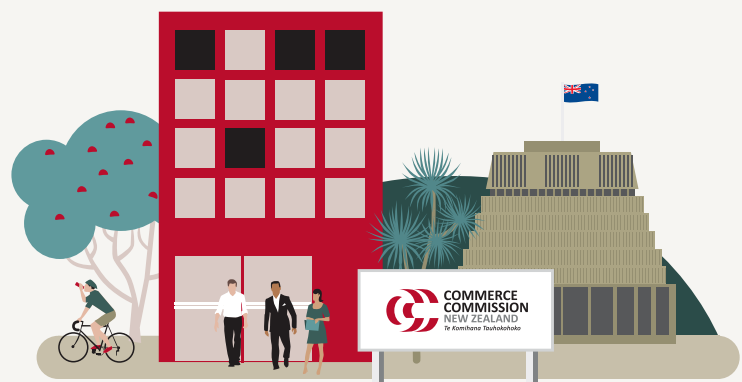
Commission staff are committed to our organisation's vision and work hard every day to contribute to it. In March 2018 we launched a staff-led diversity network to promote diversity and inclusion at the Commission. The network has held a number of workshops focused on ways to increase understanding of the different skills, backgrounds, values and experiences we each bring to work. We also continue to look for ways to support a strong and healthy culture and enable a flexible working environment that attracts and retains excellent staff.

The Commission has accomplished a great deal in 2017/18 and remained focused on our unique contribution to making New Zealanders better off.

Ngā mihi



Adrienne Meikle
Chief Executive



Year in review

JULY

Vero/Tower insurance merger declined

Vector returns \$13.9 million to electricity customers after collecting more revenue than allowed

DECEMBER

High Court upholds our decision to decline NZME/Fairfax merger*

Online data visualisation tool launched to help improve understanding of the performance of electricity distributors

JANUARY

New videos and quick guides launched to help businesses understand competition law

FEBRUARY

'If you can't back it up, don't say it' trader campaign launched

First penalty handed down for Timber King and NZ Steel Distributor in investigation into earthquake-grade steel mesh

Draft report finds Auckland International Airport's future profits might be \$47 million too high

MAY

Launch of enhanced Measuring Broadband New Zealand programme

High Court rules Harmoney's platform fee is a credit fee under credit laws

*Decision also upheld by Court of Appeal in September 2018.

AUGUST



Beginners guide to broadband quick guides launched

SEPTEMBER



First conviction under use of unsubstantiated representations for Fujitsu over heatpumps



It's All Good resources launched to teach teens consumer rights



OCTOBER

123 Mart receives biggest fine of \$337,000 in a product safety case

NOVEMBER



Commission approves \$1.27 billion major network upgrade for Powerco and \$31 million earthquake readiness plan for Wellington Electricity



MARCH



Mobile Shop Ltd receives biggest fine of \$330,000 against a mobile trader

APRIL



Budget Loans fined \$720,000 for 'cynical and deliberate' repossession practices

JUNE



First court case filed alleging breach of Lender Responsibility Principles by payday lender Ferratum



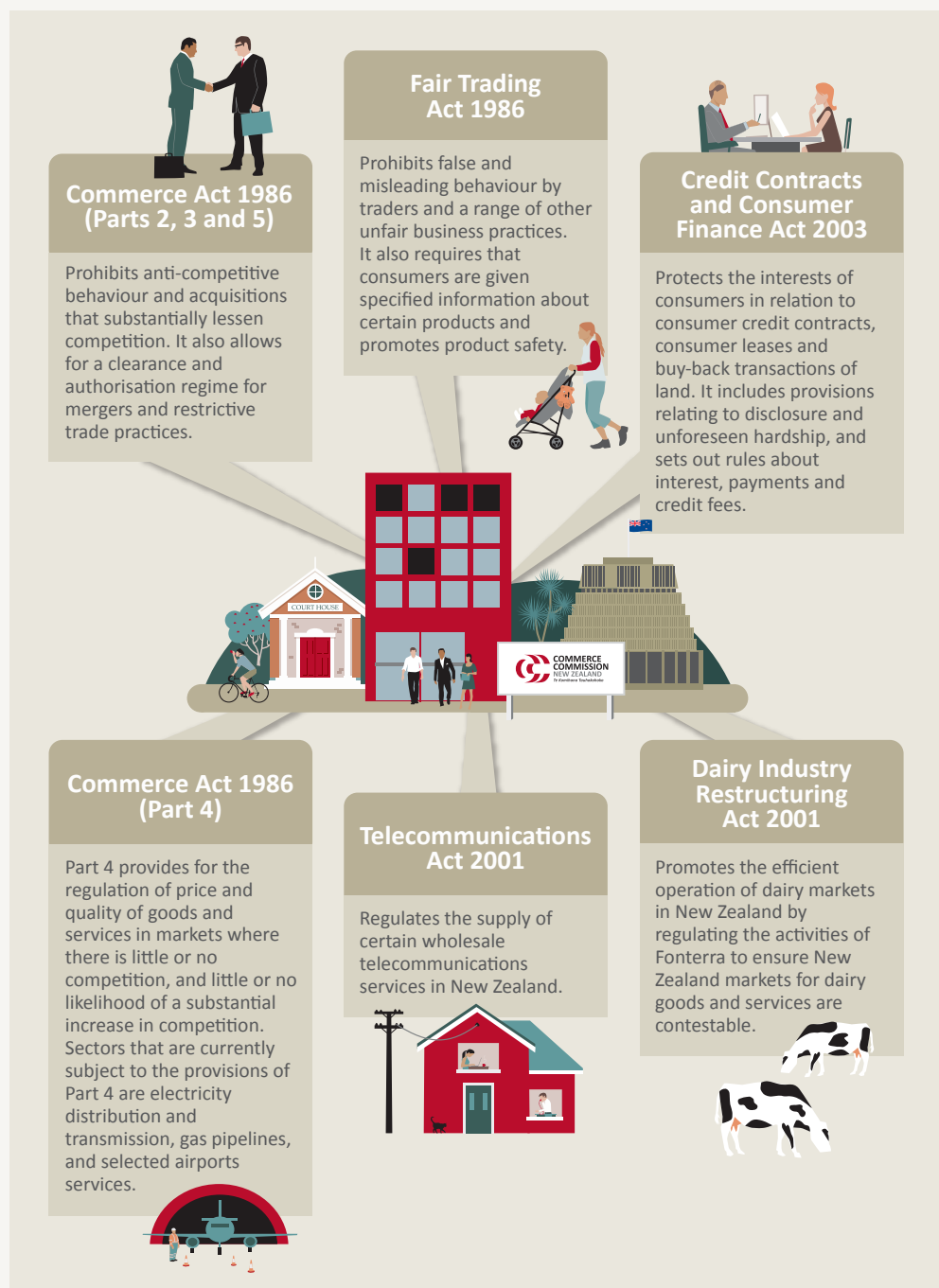
Commission releases emerging view that Fonterra's risk estimate is too low when calculating milk price

Our role

The Commission is an independent Crown entity. We are primarily accountable to the Minister of Commerce and Consumer Affairs and Minister of Broadcasting, Communications and Digital Media for our performance. We are not subject to direction from the Government in carrying out our enforcement and regulatory activities. This independence requires us to be an impartial promoter and enforcer of the law. Where relevant, we use our experience to provide advice on policy development and legislative reviews.

Legislated responsibilities

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, telecommunications, dairy, and airport sectors.



Our performance story this year

Strategic framework

Our strategic framework brings together our vision, strategic objectives, strategies, and values. These make up our vision and strategy for 2017-2022. Our vision is that New Zealanders are better off because markets work well and consumers and businesses are confident market participants.



Our strategic objectives outline how we contribute towards making New Zealanders better off. Our progress towards achieving this in 2017/18 is detailed on pages 10-21.

In order to achieve our strategic objectives, we organise our work around three strategies:

1. Seize opportunities to have the greatest impact
2. Protect, inform and empower consumers and businesses
3. Be trusted, influential and high-performing.

The first two strategies determine how we organise our work and what we do to achieve our strategic objectives. The third strategy sets out how we shape our organisational health and capability to successfully deliver the other strategies. Full details on our performance against each strategy are given on pages 22-34.

This annual report describes our performance against our strategic objectives and strategies as set out in our 2017-2022 Statement of Intent (SOI) and Statement of Performance Expectations (SPE) 2017/18.

Performance against our strategic objectives

In our SPE 2017/18, we indicated we would determine whether we were successfully achieving our strategic objectives by drawing on a range of sources, including performance stories and indicators. When viewed together, these help demonstrate our progress towards achieving our strategic objectives.



Strategic objective 1: Markets work well

Well-functioning markets allow consumers and businesses to experience the benefits of competition. Effective competition creates incentives for businesses to improve efficiency and produce products and services at a price and quality demanded by consumers. In markets with little or no competition, regulation can help create similar outcomes to those seen in competitive markets.

The Commission's work to contribute to markets working well includes:

- increasing traders' understanding of the rules we enforce
- preventing anti-competitive mergers and agreements by businesses including cartels
- monitoring and taking action against anti-competitive transactions not subject to a clearance application
- taking action to prevent market power from being abused
- regulating sectors with little or no competition to incentivise them to operate efficiently
- providing accurate information to consumers and businesses which they are empowered to act on.

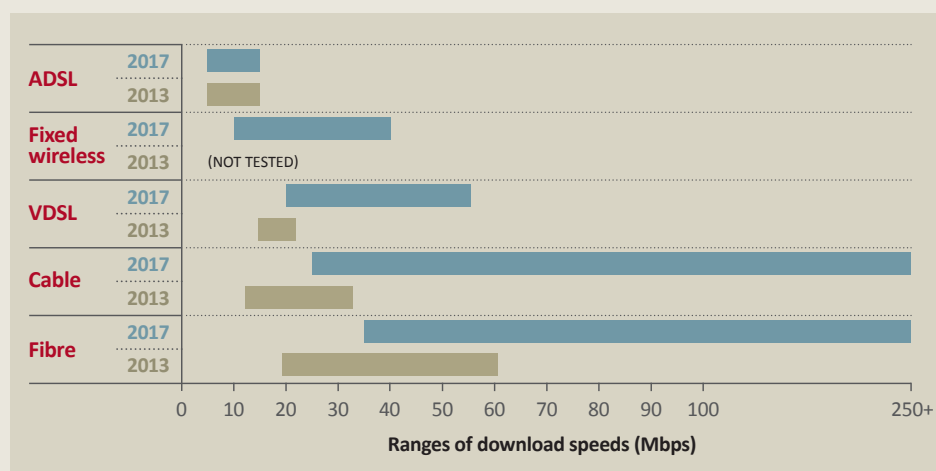
The performance stories and indicators that follow illustrate how our work has contributed to markets working well in New Zealand.

For markets to work well, information needs to be available to consumers to help them make informed purchasing decisions and businesses need incentives to improve their performance. The performance story below illustrates our work to achieve this in broadband markets.

Shining a light on broadband performance

The Commission started residential fixed-line broadband performance testing in 2007. The testing by independent provider TrueNet between 2013 and 2017 tracked the improvements in average in-home speeds across technologies during this period. It also recorded noticeable events like Netflix's arrival in New Zealand in 2015, which saw providers having to manage network congestion caused by large increases in video traffic over broadband networks. The monthly test results gave providers up to date information to identify and address issues and monitor the effect of changes to their networks.

Overall broadband performance has improved dramatically. The diagram below shows the increase in average in-home broadband speeds New Zealanders experienced between 2013 and 2017.



Despite this improvement, we know that many consumers still find broadband baffling, with complex products and pricing, and hard to measure in-home performance.

In May 2018, when our broadband monitoring programme contract was re-tendered, we selected SamKnows as our new independent testing provider. The enhanced monitoring programme is focused on providing accurate, accessible and independent information about broadband performance across different providers, plans and technologies, to help consumers choose the best broadband for their household. Shining a light on actual in-home performance will also incentivise providers to compete on performance and service, not just price.

Monitoring results and reports from the new programme will be available in the next financial year. We will continue to explore ways to make this information available to as many consumers as possible. The programme will also help to fulfil our obligations under proposed amendments to the Telecommunications Act to monitor and report on retail service quality to help inform consumer choice.



In markets that are working well, traders understand and operate by the rules and there is effective competition between businesses.

The following performance story illustrates how our investigation work can identify barriers to competition and how we deploy a range of interventions to improve market outcomes.

Improving awareness of competition law in the veterinary sector

In 2017/2018, we concluded our investigation into alleged anti-competitive conduct in the veterinary profession. Arising from the investigation, we had concerns about the extensive communications, which included commercially sensitive information, between veterinary practices, industry bodies, wholesalers, and manufacturers of veterinary medicines.

Given the industry's lack of understanding about the Commerce Act, we developed an advocacy programme to improve awareness of competition law. This included working with the Ministry for Primary Industries, individual veterinary practices, and industry associations, including the Veterinary Council of New Zealand and the New Zealand Veterinary Association, to improve their understanding of the law. The programme included preparing a series of basic articles dealing with procurement, collaborative activities, leniency, and cartel conduct for publication in industry magazines over the coming year.

We are pleased to have promoted change in the industry and have noticed an improvement in awareness as a result of our engagement.

We intend to use the materials in similar advocacy programmes for other industries, along with other educational materials we have produced, including our animated series on competition law.



A key measure of markets working well is the intensity of competition. This shows how well consumers are served, and how well businesses are able to enter and operate in markets. The Commission is one of the many influences that determine the competitiveness of New Zealand markets.

PERFORMANCE INDICATOR

To help us assess whether competition is improving in New Zealand, we consider the annual World Economic Forum's Global Competitiveness Index.¹ The assessment is based on a range of criteria, some of which the Commission can influence.

The 2017/18 report saw New Zealand's Global Competitive Index score improve from 5.25 in 2016 to 5.37 in 2018. That takes New Zealand's competitive ranking among 137 countries from 16th in 2016 to 13th in 2018. It also puts New Zealand ahead of other countries with similar market dynamics, including Canada, Australia and Ireland.

New Zealand's global competitive ranking and index score from 2016 to 2018

Year	2018	2017	2016
Ranking	13th out of 137 countries	13th out of 138 countries	16th out of 140 countries
Index score	5.37	5.31	5.25

1. The '12 pillars' considered are institutions, infrastructure, macroeconomic environment, health and primary education, higher education and training, goods market efficiency, labour market efficiency, financial market development, technological readiness, market size, business sophistication, and innovation.

In our work in regulated industries, we supported markets working well by completing our review of the rules underpinning the regulation of energy networks and airports.

Ensuring the regulatory regime remains fit for purpose

Input methodologies (IMs) are the upfront rules, processes and requirements underpinning price-quality paths and information disclosure requirements for natural monopolies. They are designed to promote certainty in relation to issues like the valuation of assets and the allowed rate of return on investments.

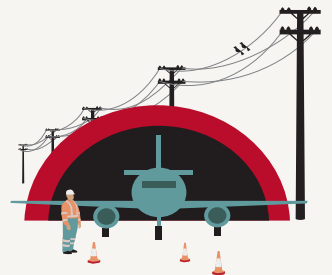
Once set, the upfront rules are applied to decisions such as how much revenue businesses can recover from customers. We are required to review these rules at least once every 7 years to ensure they are not creating unnecessary compliance costs and complexity for regulated businesses, and are working for the long-term benefit of consumers.

In December 2017, we completed our first review of the IMs for energy networks and airports to ensure they remain fit for purpose.

We started the review a year early because of concerns in the electricity sector about the impact of new technologies, business models and evolving consumer preferences. We were also conscious of the need for timely completion before resetting revenue limits for gas pipeline businesses, and upcoming price-setting events by Auckland and Christchurch airports.

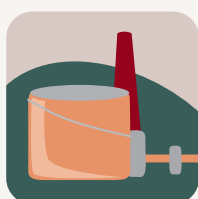
The quality of the original rules we established saw the review result in only a few significant changes. This has ensured the stability of the regulatory regime over time, which has contributed to investment certainty. The review, along with our track record of price resets, resulted in ratings agency Standard & Poor's revising their regulatory framework score for New Zealand upwards from 'strong/adequate' to 'strong'.

We will continue to engage with stakeholders on how the sectors are developing to ensure the regulatory regime remains fit for purpose.



PERFORMANCE INDICATOR

The next performance indicator outlines our view on whether regulated suppliers are providing strong and sustainable infrastructure for the benefit of New Zealanders.² In 2017/18, our general view is that regulated suppliers are delivering this. However, we have concerns in some areas and will continue to take action when required. We are also working to improve our risk assessment by increasing our understanding of infrastructure performance.



Regulated Sectors	Commentary
Electricity Networks	<p>On the whole, the underlying infrastructure for electricity networks in New Zealand is delivering a reliable service to New Zealanders. During the year we approved major network investments for Powerco and Wellington Electricity to support both to continue to have strong and sustainable networks. However, we are investigating several instances of quality breaches that have raised concerns about the state of the networks involved.</p> <p>Electricity network operators are also facing a time of increasing uncertainty as emerging technologies may bring elements of disruption into what represents appropriate infrastructure in this sector. This is something we are monitoring and working closely on with the Electricity Authority.</p>
Gas Pipelines	<p>Gas infrastructure currently provides services at a high level of reliability to New Zealanders connected to the reticulated network in the North Island. Work is needed to address a specific resilience concern on the gas transmission network in Northern Taranaki. We are working with industry participants to ensure erosion risks are appropriately managed and long-term performance of the transmission network can be maintained. The sector also faces some uncertainties in light of the Government's decision to prohibit new offshore exploration permits.</p>
Airports	<p>We have seen substantial investment being planned and carried out for Auckland International Airport, our most important international gateway. We are currently assessing the price resets by both Auckland and Christchurch Airports to determine whether the returns they are targeting on their regulated services are appropriate.</p>
Telecommunications	<p>The new fibre networks rollout has dramatically improved the condition and capacity of infrastructure supplying fixed broadband services. With much of the rollout on track for completion in 2020, we are focused on implementing proposed legislation which would create a utility-style regulatory framework for fibre networks. We will draw on our experience of price quality and information disclosure regulation for energy networks and airports.</p> <p>In mobile markets, the regulatory framework overseen by the Commission has seen the evolution of three competing cellular networks, which have successfully deployed 3G and 4G networks, with 5G rollout expected in future. By facilitating 'fixed wireless' services, these on-going increases in the capability of mobile networks have meant that competition with fixed broadband services may be a common feature of the market in future.</p>

2. This performance indicator does not apply to the dairy sector as the Commission's role under the Dairy Industry Restructuring Act 2001 is primarily limited to reviewing Fonterra's milk price manual and milk price calculation, and for the most part does not involve looking at the performance of any dairy markets as a whole. By comparison we have a more significant role to play in relation to the other regulated sectors covered by the indicator (electricity, gas, airports and telecommunications) where we set the underlying rules, monitor performance and take enforcement action in regulated markets.

Strategic objective 2: Businesses and consumers are confident market participants

New Zealanders are better off when they are confident market participants. This is not about how confident consumers and businesses are in the economy and their ability to spend money, but their confidence to participate in markets – regardless of economic performance.

Consumers are confident market participants

Consumers have confidence to participate in markets when they have access to information that helps them make informed borrowing and purchasing decisions, they are able to assess whether businesses are trading fairly, and they feel the system is working to protect their interests.

In 2017/18, our work focused on ensuring consumers:

- have access to information so they can make informed choices
- are not misled about the price, characteristics and quality of good and services and credit terms
- benefit from dependable and efficient regulated services
- know their rights and how to use them.

For consumers to participate in markets confidently, they need to be aware of what their rights are and how to exercise them. The following performance story looks at the work we have done to teach teenagers about their consumer rights.

Teaching teenagers their consumer rights

In 2016 we launched an animated series called *It's All Good* to help consumers understand their consumer rights.

These have been well received in the community budgeting advisory sector, with episodes viewed more than a million times online.

Since then we have continued to explore ways to widen the reach of the animations. In November 2017, we released a series of *It's All Good* teaching resources, which we developed with the help of a practising teacher.

We targeted teenagers, as the 2016 National Consumer Survey conducted by the Ministry of Business, Innovation and Employment (MBIE) revealed that young people and those currently studying are among the most likely to know little about their consumer rights. We also focused on teenagers as it is the age many will start making their own borrowing and purchasing decisions.

The resources focus on common situations like buying a car, getting a loan, being visited by a door-to-door salesperson, and making a decision about whether to buy an extended warranty. They include a student workbook, interactive quizzes, and a board game, and have been distributed to more than 600 schools throughout New Zealand. We have also promoted the resources through MBIE, our social media channels, in the Education Gazette, and at events such as the Young Enterprise Trust conference.

Teachers have provided positive feedback on the resources, which they have been able to integrate easily into their curriculum.

We will continue to look for opportunities to use our *It's All Good* series in other contexts to empower even more consumers to be confident market participants who know their rights and how to exercise them.



For consumers to be confident, the Commission also needs to be seen to take a leading role in investigating, prosecuting and deterring the worst violations of consumer trust and confidence. The following performance story looks at our work to improve consumer confidence in retail telecommunications.

Taking action to improve consumer confidence in retail telecommunications

In 2017/18 the Commission announced that the retail telecommunications sector would be a priority focus area for the organisation because of high levels of consumer complaints and ongoing concerns about service quality.

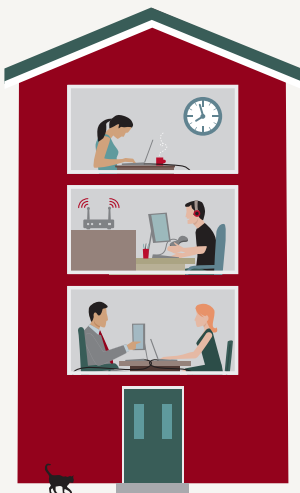
We used a wide range of tools, from education to enforcement. This included investigations carried out into promotional messages and systemic billing issues. As a result, we filed proceedings against Vodafone in April 2018 for allegedly misleading consumers about its FibreX broadband product, and against Spark in July 2018 for billing issues. We also warned a number of providers for conduct likely to breach the Fair Trading Act. This included warning MyRepublic, 2degrees, Spark, and Vodafone in August 2017 for specific conduct. In December 2017 Stuff Fibre was also warned for making unsubstantiated claims it had 'probably NZ's fastest internet'. Stuff Fibre stopped making the claim as a result of our intervention.

A significant focus this year was educating both businesses and consumers. We met with retail service providers to discuss issues and wrote to the industry to highlight conduct we were seeing, in an attempt to improve compliance.

For consumers, we produced the *Beginners Guide to Broadband* series to give them practical advice on how to choose their broadband, improve their broadband performance, and resolve issues with their telecommunications provider.

To improve our understanding of the operating environment, we are continuing our study into mobile markets to gain a better understanding of how they are performing, developing and may evolve in future, including the rollout of 5G. This will make sure regulation keeps pace with rapid changes in the way services are delivered and what consumers are using them for.

We recognise that systemic change in retail telecommunications will take time, which is why the sector will continue to be a priority in 2018/19. We expect new consumer provisions under the proposed Telecommunications Act, including the development of industry codes, will help address issues of retail service quality and improve consumer experiences.



We recognise that consumer surveys are a useful tool to gauge the level of consumer confidence in markets. The following performance indicators will be built on over time.

PERFORMANCE INDICATOR

Consumers are confident that competition and consumer laws are being appropriately enforced

In 2017/18 we decided to use MBIE's consumer survey carried out in 2016/17 for this performance indicator. The survey sought to find out what consumers know about their rights and whether the laws protecting them are appropriately enforced.

The survey covered 1,232 consumers, with 40% agreeing that these laws are adequately enforced. This result will be used by the Commission as a baseline for this indicator, which we will look to improve on over time. The next survey will be conducted in 2018/19. Results will be included in next year's annual report.

PERFORMANCE INDICATOR

Consumers are confident when accessing consumer credit

We have decided to use MBIE's 2018/19 consumer survey for this performance indicator. We have provided input into the next survey, which will be conducted at the end of 2018. Results will be included in next year's annual report.

PERFORMANCE INDICATOR

Consumers are confident that regulated suppliers are providing services at an appropriate price and quality

We intend to develop a consumer survey to explore consumers' views about regulated sectors, following on from the MBIE's consumer survey, which is conducted every 2 years. This survey will be conducted in 2018/19. Results will be included in next year's annual report.



Businesses are confident market participants

Businesses need to be confident that the rules are clear and competitors are playing by the rules. Businesses and investors also need to be confident that the regulatory regime we are responsible for is predictable in order to continue to invest and innovate.

In 2017/18 our work focused on:

- helping businesses understand and play by the rules
- ensuring businesses see the rules being applied equally and impartially to their competitors
- minimising anti-competitive barriers
- providing a predictable regulatory regime to deliver long-term benefits to New Zealanders.

For businesses to confidently participate in markets, they need to understand the rules, and see the rules being applied equally and impartially. The following performance story looks at our work to achieve this in the non-bank lending sector.

Lender website review

During the year we reviewed 215 selected lenders' websites for compliance with website credit disclosure rules under the Credit Contracts and Consumer Finance Act (CCCF Act).

The review was designed to increase our understanding of the potential scale of lender non-compliance with the rules, as well as educating lenders about their responsibilities to play by them.

The review found 21% of the lenders failed to comply with one or more of their obligations to clearly and prominently display costs of borrowing and standard form contract terms, and to accurately represent borrowers' cancellation rights. Failure to disclose appropriate information online breaches the Act and deprives consumers of information to assist them to make informed borrowing decisions.

The review provided a good insight into the difficulties consumers may face in trying to access and understand the true costs of borrowing, compare lenders and make informed credit choices.

As part of the review, we also gathered intelligence on interest rates and fees. We observed significant variations, with interest rates ranging from 0% to 803% per annum, and more than 500 different fees ranging from \$5 to \$5,000.

We have contacted all of the lenders covered by the review to remind them of their obligations. Most have shown a willingness to make changes. However, we will be checking back and may consider further action if they have failed to comply.



Likewise, we implemented a wide-ranging strategy to ensure all parts of the supply chain for children's toys understood and played by the rules we enforce for product safety standards.

Product safety for children's toys

An enduring priority for the Commission is improving business and consumer confidence in the product safety standards we enforce for children's toys under the Fair Trading Act. The standards are designed to protect children under the age of three from toys that pose a choking hazard.

During the year we carried out nearly 120 unannounced inspections at businesses in Canterbury, Auckland, and Wellington, as well as monitoring online distributors.

As a result of these inspections, a number of businesses were given advice about their obligations, some received official warnings, and some were asked to remove unsafe products from sale and commence voluntary recalls.

These inspections resulted in six successful prosecutions and a total of \$545,000 in fines being imposed by the courts. 123 Mart Limited was fined \$337,000 for selling toys that were potential choking hazards, and supplying flammable nightclothes for children without proper fire danger labels.

As well as the enforcement work, we have produced new guidelines, fact sheets and educational videos in English, Chinese, and Korean. These have been distributed through the supply chain, from manufacturers and importers to distributors and retailers.



We recognise that business surveys are a useful tool to assess confidence in markets, and will build on the following performance indicator over time.

PERFORMANCE INDICATOR

Businesses are confident other businesses are following the rules and other businesses understand their responsibilities under competition and consumer laws

We are currently developing our business confidence survey for 2018/19. We will report on the results from this survey in our 2019 annual report.

PERFORMANCE INDICATOR

Regulated suppliers are confident to invest in regulated assets

Based on a high-level assessment of available evidence, our view is that regulated suppliers remain confident about investing in regulated assets.

The high level trends in investment in the telecommunications sector are shown in *Figure 1*. The main driver of recent investment in the sector has been the national rollout of new fibre networks by Chorus and Local Fibre Companies (LFCs), as part of the Government’s \$7 billion ultrafast broadband initiative. In mobile markets, competition between three network providers appears to have led to increased incentives for investment, resulting in greater network coverage, and the rollout of new technologies such as 4G.

Investment in the telecommunications sector

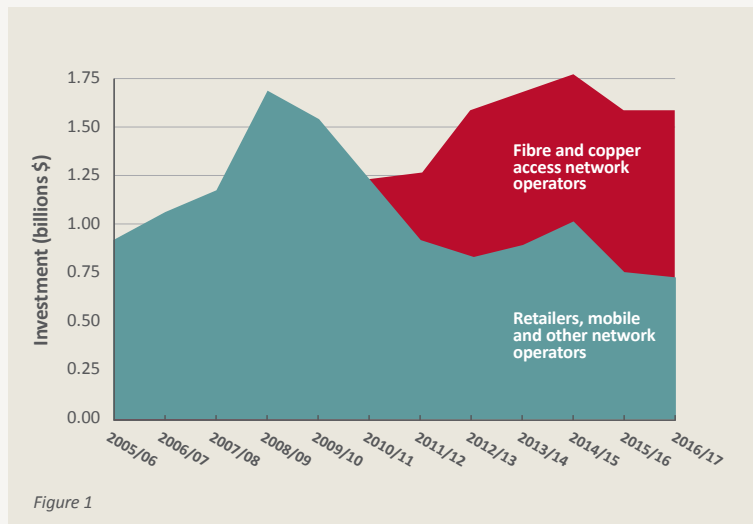


Figure 1

Energy networks and airports are required to disclose information about actual and planned investment and the trends can be seen in *Figures 2 to 5*. Since the new regulatory regime was introduced under the Commerce Act, actual and planned investments between 2008 and 2028 total around \$33 billion. That equates to around \$1.5 billion of investment each year.

Trends in actual and planned investment by energy networks and airports

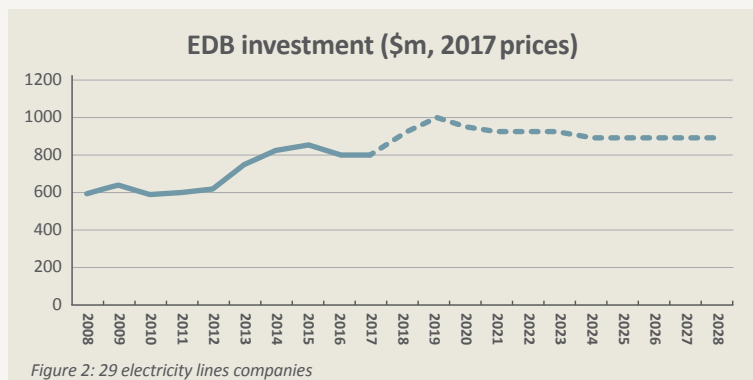


Figure 2: 29 electricity lines companies



Figure 3: Transpower New Zealand



Figure 4: Auckland, Wellington and Christchurch International Airports

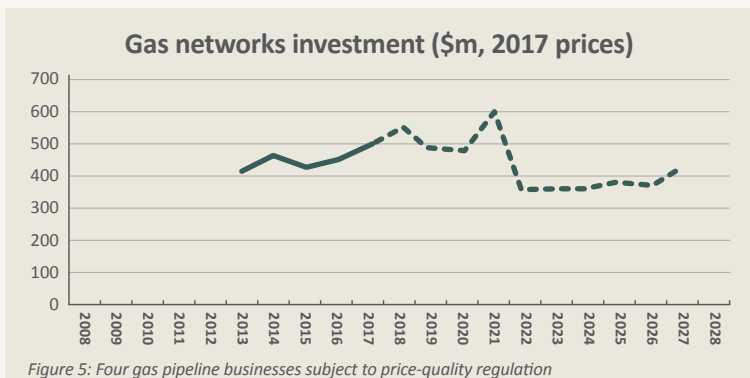


Figure 5: Four gas pipeline businesses subject to price-quality regulation

Looking at individual sectors, investment is generally being maintained around or above historical levels. Notably, Transpower made major grid upgrades shortly after the new regulatory regime was introduced, following a number of years of deferral. The future investment profile is predominately renewal expenditure, which is designed to maintain the reliability of supply provided by existing assets.

In the other energy networks, businesses have on the whole forecast relatively consistent levels of expenditure compared with prior years, with an increase in the short term. Although we are in the process of investigating a number of instances of non-compliance with the quality standards by individual electricity distributors, we have not seen evidence to suggest that any performance issues are related to the level of confidence businesses have to invest in regulated services.

The significant increase in proposed airports spend is predominately due to the significant investment programme currently being undertaken at Auckland Airport.

In addition to these high level trends, a recent report by credit ratings agency Standard & Poor's assigned a regulatory advantage score of 'strong' for New Zealand's regulated utilities – up from 'strong/adequate'. The change was attributed to our recent regulatory decisions and consistent track record of regulatory resets. This is an endorsement of the work we have done to establish a stable and predictable regulatory regime.

Performance against our strategies

To have an impact and achieve our strategic objectives, we have three overarching strategies which work together.

These are:

Strategy 1: Seize opportunities to have the greatest impact

Strategy 2: Protect, inform and empower consumers and businesses

Strategy 3: Be trusted, influential and high-performing.

Strategy 1 outlines how we determine the work we have done, while strategy 2 describes how we did it. The third strategy sets out what we look like as an organisation in order to successfully deliver the other strategies.

Strategy 1: Seize opportunities to have the greatest impact

Like any public sector agency, our resources are not infinite and we need to prioritise our work to the areas causing the most harm and where we can have the greatest impact. To do this, we are honing our research and analytical capabilities across the organisation, including deepening our engagement and partnerships with stakeholders and communities to gain market insights and improve our understanding of the needs of businesses and communities. This helps us tackle the issues causing the most harm, achieve deterrence of particular conduct, and test the law to establish important precedents.

This strategy has three key elements:

1. Understanding the threats to consumers and businesses; the performance of regulated suppliers; the environment we are operating in now and into the future; and the opportunities available to us
2. Prioritising our efforts in focus areas to address harm
3. Deciding how to have the maximum impact on the issues we identify, including considering creative and innovative solutions.

Understanding threats to consumers

We gather intelligence about threats to consumers from a range of sources. For instance, the Consumer Issues Report we released in September 2017 provided an overview of the 7,270 complaints we received in the year to 30 June 2017. This gave us, policy makers and consumer organisations insights into the current and emerging issues facing consumers in New Zealand and helped to prioritise our collective efforts.

We also worked closely with the Building Financial Capability Trust to improve the effectiveness of our Red Flags initiative by making it part of the training programme for financial mentors. The initiative helps those on the front line of the community budgeting advisory sector to identify and report unlawful lending conduct. As part of this we attended six nationwide meetings and spoke to more than 500 individuals about the role of the Commission, our recent enforcement action, and the use of Red Flags.



We have also continued to examine compliance with unfair contract term provisions under the Fair Trading Act in different sectors. Our review of standard form consumer contracts for gym users has resulted in a number of changes to contracts to make them fairer for consumers. Alongside these reviews, we also released new videos and quick guides on unfair contract terms to provide a starting point for businesses to understand their obligations more clearly.

Understanding threats to competition

We gather intelligence about threats to competition through a range of sources, including consumer and business complaints and market surveillance. For instance, over the past year we have stepped up our surveillance and enforcement to protect the integrity of our voluntary merger clearance regime to prevent irreparable damage to markets and harm to consumers. This is important as the success of the voluntary regime relies on the credible threat of enforcement proceedings for non-notified mergers that may substantially lessen competition. To increase transparency around this important work, we now publish a register of these investigations on our website. In the past year we have investigated eight non-notified mergers, including cases involving Fulton Hogan, Wilson Parking, and First Gas.

In our cartel work, we have launched an anonymous whistleblower tool to help people report cartel conduct and communicate with us without being identified. This tool helps people who would otherwise be reluctant to come forward for fear of negative consequences or reprisals.

Gaining a greater understanding of the performance of infrastructure industries

In electricity distribution, we released an open letter signalling that asset management was a key priority for our work in the sector. We consider that electricity lines companies should prioritise investment and maintenance of the assets to ensure their networks provide the reliability, safety and resilience consumers expect. As part of our proactive interest in these issues, our staff visited many of the 29 electricity distributors to observe their approaches to managing asset information, inspecting their networks, planning investment, managing risks, and engaging with customers. In July 2018 we released our high-level observations from these visits and desktop reviews of their 10-year asset management plans from 2016/17. While lines companies are responsible for ensuring the reliability and safety of the networks, we see benefits in sharing our observations to encourage lines companies to learn from each other. Shining a light on asset management practices also helps us and interested stakeholders understand whether the companies are undertaking the necessary planning and investments to avoid any serious decline in service quality over time.

In the gas sector, we are working with First Gas to develop a better understanding of its approach to managing its assets, particularly about coastal erosion concerns on the gas transmission network in Northern Taranaki. We continue to engage with First Gas to understand its proposed options, such as an application for a customised price-quality path.

In the airport sector, we released our draft report on Auckland Airport's pricing decisions. Our key finding was that profits could be \$47 million too high over the 5 years from 1 July 2017. Meanwhile, we were broadly satisfied with Christchurch Airport across most areas of performance, including profitability. Final reports will be released in late 2018, after considering submissions from stakeholders.



Understanding the operating environment now and into the future

To be effective, we need to ensure we keep pace with technological developments and their impact on markets. This is especially the case in the electricity sector. In May 2018 we released an open letter outlining our intention to gather information from regulated electricity distributors to understand more clearly how they are planning, investing in and accounting for emerging technologies like battery storage, solar, electric vehicles, and home automation systems. In particular, the letter reminded lines companies that the costs for assets like electric vehicle chargers should not generally be included in their regulated asset bases, as they are not a cost of providing regulated services that consumers ultimately pay for through their power bills. We also reminded the companies to ensure they are not taking advantage of the substantial market power they have in lines services to impede rivals in emerging markets that they are seeking to enter, or are already participating in. We want to ensure consumers benefit from advances in technology, while at the same time promoting the development of competitive energy markets. This means regulated monopolies should not have an unfair advantage over existing and future competitors in this space.

Likewise, the world of telecommunications continues to evolve. In addition to publishing our Annual Telecommunications Monitoring Report, in October 2017 we began a study into mobile markets to ensure our regulatory efforts keep pace with the rapid changes happening in the way mobile services are delivered and what consumers use them for. This includes understanding upcoming key developments, including 5G deployment and radio spectrum allocation. The study seeks to understand how these might affect competition and consumer outcomes and what potential obstacles exist or could exist in the future to prevent consumers from benefiting from competition in mobile markets. The study will also help us identify areas that may require more or less regulatory oversight.



The second and third parts of this strategy are about prioritising our efforts in focus areas to address harm and decide how to have the maximum impact on the issues we identify, including considering creative and innovative solutions.

To help prioritise our work, in August 2017 we published our annual priorities. These help sharpen our focus on the issues causing the most harm and where we can have the greatest impact. We have used the full range of tools at our disposal to address the issues we have identified. Examples of some of the creative and innovative solutions we have adopted are outlined below.

Education and outreach

We continue to look for ways to empower consumers to make more informed borrowing decisions. Our *Getting a Loan* campaign in June 2018 trialled innovative techniques to reach our target audience, including pop-up ads in video games and on YouTube. These were viewed more than 250,000 times. Because we recognise that New Zealand is an increasingly diverse country, we are also translating more of our resources into different languages. Our 0800 enquiries line welcome message includes information about translation services and is now available in seven languages.

At the same time we also work to upskill businesses on their responsibilities. A particular focus for the year was on credence claims. These are claims consumers cannot easily verify, such as 'Made in New Zealand', 'gluten free', 'free range', and 'organic'. As well as investigating a number of potentially false and misleading claims, we worked with other government agencies and industry associations to increase industry awareness. This included hosting a joint conference with the Advertising Standards Authority. In February 2018, we released a video called *If you can't back it up, don't say it* which gives guidance to traders on avoiding making false and misleading claims. We also made Chinese and Korean language versions of the campaign and promoted these via Chinese social media platform WeChat. This video resulted in more than 40,000 visits to our campaign webpage.



Court proceedings to clarify the law and establish precedents

In May 2018 we were successful in our case to clarify the law in relation to peer-to-peer lender Harmony. The High Court found that Harmony is a creditor and its platform fee is a credit fee under the Credit Contracts and Consumer Finance Act. Justice Patricia Courtney noted that she "did not accept Harmony's submission that the relative novelty of peer-to-peer lending should preclude the usual application of the CCCFA". The implications of those findings are that Harmony's fees cannot be unreasonable and must only recover transaction-specific costs. We are now continuing with our civil proceedings against Harmony. We allege it breached the Act by charging unreasonable fees and we are seeking orders to compensate affected borrowers.

In June 2018 we filed our first case relating to breaches of the Lender Responsibility Principles against payday lender Ferratum. We are seeking to reopen some of Ferratum's loans on the grounds the contracts were obtained by oppressive means and included oppressive terms and conditions. This includes interest rates in excess of 183% per annum.

Investigating non-notified mergers was an emerging priority during the year. In July 2018 we achieved a successful divestment outcome to resolve our proceedings against Platinum Equity's acquisition of OfficeMax. This divestment satisfied our competition concerns in markets for the supply of stationery and office supplies to corporate and government customers.

Making performance information about regulated utilities more accessible

It can be a challenge to make complex information about the performance of energy companies available in an accessible format. To help improve accessibility, we launched a new online data visualisation tool for electricity lines companies. The new tool helps to break down the barriers to understanding how the businesses are performing. It uses Tableau software to allow people to quickly view a selected range of metrics including profitability, revenue, capital and operating expenditure, and reliability.



Strategy 2: We protect, inform and empower consumers and businesses

A key part of our role is to protect New Zealanders from harm caused when markets do not work well. We continue to explore new ways to inform and empower consumers and businesses to be confident market participants. While our regulation work is technical, we try to simplify the complex by making information about regulated utilities more easily accessible to ensure we achieve a transparent and predictable regime.

This strategy has three key elements:

1. Protecting consumers and businesses from behaviours or market structures that harm consumers or competition
2. Informing consumers and businesses about their rights and obligations
3. Empowering consumers and businesses to participate in markets, resolve issues when they arise, take action if their rights are infringed, and influence the actions of regulated businesses.

Our work under this strategy in different sectors is highlighted below.

Consumer credit

Irresponsible lending is an enduring priority for the Commission because of the harm it can cause already vulnerable consumers.

During the year, we concluded our enforcement cases stemming from our mobile trader project. Since 2015 this has resulted in 13 prosecutions and total fines of \$1.56 million. During the year, the courts imposed fines of \$330,000 for Mobile Shop Limited, \$83,363 for BestBuy, \$108,000 for Zee Shop, \$126,000 for Macful International and \$114,000 for Apperture. We continue to monitor this sector for compliance with the laws we enforce.

In January 2018 debt collection group Receivables Management agreed to credit more than \$1.4 million to around 1,700 customers who were wrongly charged interest, costs and fees after their goods had been repossessed and sold. In May 2018 we also achieved a sentence in our long-running case against Budget Loans. It was fined \$720,000 under the Fair Trading Act. It was also ordered to pay reparations to nine victims and to refund and credit a number of borrowers for what the judge described as ‘cynical and deliberate’ repossession practices.

We have also worked to improve understanding of the law in the lending sector by publishing simple guidance like our online lender tipsheet and conducting our lender seminars in Auckland, Wellington and Christchurch. These were designed to inform and update the industry about credit compliance matters and provide insights into our activities, processes and enforcement priorities. It was also a useful opportunity to hear from the industry about their issues and concerns.

Construction cases

Construction cases are an enduring priority for the Commission, especially those that may have significant building performance or potential safety implications. During the year, the courts imposed the first sentence in our steel mesh cases, with Timber King and NZ Steel Distributor fined \$400,950 for making false and misleading representations relating to their earthquake-grade steel mesh products. Meanwhile, former directors for the now defunct Christchurch Lightweight Concrete Limited and Supercrete Auckland Limited were fined for misrepresenting autoclaved aerated concrete panels as the premium 'Hebel' brand when they were not.

False, misleading, and unsubstantiated claims

We achieved a \$351,000 fine against cold call education company Auckland Academy of Learning for making misleading representations about an educational programme it was selling to consumers in their homes, and for failing to notify consumers of their rights to cancel the contracts they entered into during the required 'cooling off' period.

Other cases in this area included heat pump supplier Fujitsu being fined \$310,000 for making unsubstantiated or misleading claims about the energy efficiency and performance of some of its heat pumps; Endeavour Consumer Health Limited being warned over its use of the term 'Pharmacy Strength' in marketing its Red Seal Pharmacy Strength range of nutritional supplements, and Glaxosmithkline and AFT Pharmaceuticals being warned that their product packaging and marketing representations for some Voltaren, Panadol and Maxiclear products were likely to have breached the Fair Trading Act.

Consumer Guarantees Act (CGA)

While we do not enforce the Consumer Guarantees Act, in the past year we have taken several cases against businesses who have misrepresented consumers' rights under the CGA to protect consumers. This includes filing charges against Noel Leeming for alleged misrepresentations about consumers' rights under the CGA. We also warned Apple that it likely misled consumers about their rights and about its replacement products being new.

Cartels

We have undertaken significant work to protect consumers and businesses from behaviours and market structures that harm consumers and competition. Cartel investigations are an enduring priority for the Commission because of the significant impact they can have on competition and consumers. Our complaint numbers about anti-competitive conduct have remained steady and we have increased our advocacy efforts with industries, as we remain concerned industry associations are being used as a forum to exchange commercially sensitive information. To help address this, we released new introductory videos and quick guides on competition law for businesses on topics like bid rigging, price fixing, market allocation, and how to report illegal activity they or their competitors have been involved in. We also published our Competitor Collaboration Policy and Collaborative Activity Guidelines after Parliament passed the collaborative activities clearance regime, as well as updating the policy and guidelines to clarify the steps parties involved in cartel conduct are required to take when applying for immunity or cooperation concessions.

On the enforcement front, we completed more investigations into anti-competitive behaviour and filed charges alleging cartel conduct in the supply of milk testing products, services and herd management systems, and against a Nelson pharmacy and its directors for price fixing.



We also completed our proceedings against a national livestock cartel, arising from the industry's response to the introduction of the National Animal Identification and Tracing Act 2012, with total court-imposed penalties of \$3.28 million. Likewise, we concluded our enforcement proceedings against 13 real estate agencies for price fixing. The cases have resulted in close to \$19 million in penalties. We are appealing the High Court's decision to dismiss our final case against two Hamilton real estate agencies and their directors.

Mergers and authorisations

Our work in merger clearances and authorisations continues to touch on many aspects of the economy. This includes examining the markets for medium density fibreboard, healthcare, prescription lenses and eyewear, accounting software, swimming pool equipment, and even tomato sauce. In the past year we granted six merger clearances and one authorisation and declined two clearances.

We have noticed a trend of clearance applications in already highly concentrated markets. For instance, we declined clearance for Vero to acquire Tower in personal insurance markets, as it would have removed the only independent significant competitor to Vero and IAG.

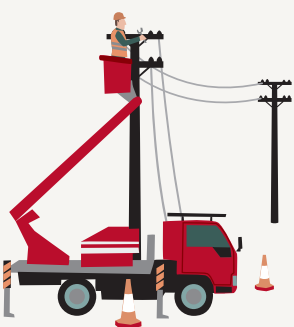
We also declined to grant clearance for online marketplace and classified advertising platform Trade Me to buy motor vehicle dealer management software (DMS) company Motorcentral. These two products are closely related because motor vehicle dealers use DMS to manage their online listings. The two parties to the proposed merger were by far the largest suppliers in their respective markets, facing only limited existing competition. There was, however, the potential for expansion and entry in each market. The Commission considered that the proposed merger could undermine that potential for increased competition. The merger would have removed direct competition from Trade Me's own DMS with the likely effect of substantially lessening competition in the DMS market. Furthermore, by controlling the leading supplier in both markets, the merged firm Trade Me could raise barriers to entry and expansion for potential rivals in each market, by making it more difficult or less attractive for motor vehicle dealers to use other platforms or DMS.

During the year we also defended our decision to decline the NZME/Fairfax merger in the High Court and Court of Appeal. This has been a significant and resource-intensive piece of work. We are pleased that our decision was upheld in the High Court and Court of Appeal. The appeal rulings confirmed that we have jurisdiction to consider detriments beyond those that can be economically quantified and we can consider wider public benefits and detriments when assessing merger authorisation applications.

Customised price-quality paths for electricity lines companies

In March 2018 our decisions to reset the revenue limits applying to Powerco and Wellington Electricity recognised that increased investment was necessary to keep a safe, secure and reliable electricity supply affordable into the future. The \$1.27 billion major network upgrade for Powerco allows it to replace parts of its network nearing the end of its life, and cope with increasing pressure from regions with strong growth, such as Tauranga. We also approved Wellington Electricity's plan to spend \$31 million to make its network more earthquake-resilient. The urgent application by Wellington Electricity followed the 2016 Kaikoura earthquakes. This increased the risk of a major earthquake occurring in Wellington and highlighted the capital city's vulnerability to seismic activity.

In reaching both decisions, we made associated adjustments to the quality standards at the same time we made changes to the revenue limits. Powerco is required to report annually to both the Commission and its consumers about how its investment is tracking against its proposal. Meanwhile, a key feature of the decision for Wellington Electricity was a mechanism that incentivises the business to complete the urgent work or return money to consumers through lower prices.



Enforcement of price-quality paths for electricity distributors

We continued to assess compliance with the existing revenue limits applying to electricity distributors. We were able to return around \$15 million to consumers through enforcement action. In particular, in July 2017 Vector agreed to return \$13.9 million to Auckland electricity consumers after accepting it breached its price path by recovering more revenue than it was entitled to in the 2014 and 2015 pricing years. In November 2017 we reached a settlement with Nelson Electricity after it inadvertently exceeded its revenue cap for the year to 31 March 2017.

We continue to progress investigations to understand the reasons for non-compliance with minimum reliability standards for Auckland electricity lines company Vector, South Canterbury lines company Alpine Energy and Dunedin and Otago lines company Aurora Energy. The investigations are the result of the companies breaching the minimum standards of network reliability, which is measured by the frequency and duration of power outages.

In addition, Aurora has initiated an independent review of the state of its network. We have been actively involved in the development of the terms of reference and selection of the independent expert engineer carrying out the work. Understanding the risks to public safety and the ability of the network to keep the lights on are key factors in the review, which will help the Commission and stakeholders assess the appropriateness of planned investments and interventions by Aurora.

Review of input methodologies for energy networks and airports

We made some adjustments to the upfront rules that are a key part of our regulatory regimes. For example, we improved the rules that are designed to stop consumers paying too much for electricity and gas when a related party is used to carry out services, such as network maintenance or tree trimming, instead of an independent contractor. The new approach puts an onus on the businesses to show that the value of related party purchases and sales is consistent with arm's length transactions and is based on an objective and independent measure. Independent auditors will also have to give their opinion on whether a regulated company's related party transactions comply with the rules.

Other changes to the rules and processes largely focused on those that apply to Transpower, which operates the national electricity grid. These included updating the requirements for the disclosure of information about the health of the assets to take account of the evolving nature of Transpower's asset health models, and changing the rules applying to major investments in the national grid. This is designed to improve the incentives Transpower has to undertake the right investments, in the right place, at the right time. Transpower also agreed to trial using an independent verifier to front load the scrutiny of expenditure and demand assumptions for its 2020 revenue reset, before it is submitted to us for evaluation.

Dairy regulation

We administer a milk price monitoring regime under the Dairy Industry Restructuring Act. Because Fonterra has significant market power in the purchase of farmers' milk, the monitoring regime is designed to incentivise Fonterra to operate efficiently and consistently with contestability in the market.

During the year we released an independent report and emerging view on how Fonterra estimates risk in setting the milk price. This helped us form our view that Fonterra's estimate of risk in calculating the cost of financing milk processing operations is likely to be too low. The impact of this is that Fonterra calculates a higher milk price than would be the case if it used a more feasible allowance for risk in the cost of finance, consistent with other processors.





Strategy 3: We are trusted, influential and high-performing

Our third strategy focuses on our organisational health and capability.

This strategy is about:

1. Being regarded as a trusted and influential organisation
2. Being regarded as a high-performing organisation, including attracting, developing, and retaining excellent people; and working efficiently to deliver value for New Zealanders.

Examples of our work to achieve this are highlighted below.

Helping with policy development

We have a role in contributing to policy development in an advisory capacity to help ensure the legislation we implement is workable and effective. This includes identifying gaps or deficiencies in the current laws. Where changes are made to the legislation we operate under, we focus on the resources, people, processes and systems needed to enforce the amended laws. We also make sure businesses are aware of their obligations, and consumers are informed of their rights. Examples of legislative change we have been involved in over the past year include the implementation of the new collaborative activities regime and proposed introduction of competition studies powers, and the criminalisation of hard-core cartel conduct. We are also involved in the reviews of consumer credit laws, the dairy industry, and electricity pricing. We are preparing to implement significant changes to the regulatory framework for fibre networks.

Working with others to have the greatest impact

We see real value in partnering with other government agencies, non-government organisations, business associations, and community and consumer groups to have the greatest impact. In particular, we work closely with the Consumer Protection Partnership led by MBIE and the Building Financial Capability Trust on consumer and credit issues. We also work closely with other agencies including the Financial Markets Authority, Police, and the Serious Fraud Office, and are part of the Fintech Regulatory Roundtable.

One example of the way we work with others to have the greatest impact was our outreach programme with the accounting industry to improve awareness about the Commerce Act among small to medium-sized businesses (SMEs). Outreach was the most effective way to reach this broad group and we used accountants as a vehicle to disseminate our message as they have regular contact with SMEs.

As markets are evolving, we also need to keep pace with developments. We continue to develop a closer working relationship with the Electricity Authority, our co-regulator in the electricity sector. While we have different responsibilities, it is increasingly clear we are asking many of the same questions. Both agencies regularly seek input from each other on projects, discuss potential overlaps, and provide specific expertise.

International engagement

The challenges we face are not unique to New Zealand and we continue to work closely with our international counterparts. This includes having two Commissioner cross-appointments with the Australian Competition and Consumer Commission (ACCC), making secondments to and from international agencies, recruiting from overseas agencies, facilitating visits from a range of overseas regulators, and key Commission staff attending major forums.

We also gain important intelligence from being part of the Australian Utility Regulators Forum, the International Competition Network, the OECD's Network of Economic Regulators and Competition Committee, and the International Consumer Protection and Enforcement Network (ICPEN). In the past year, in our role on the ICPEN Intelligence Working Group, we have led the development of an improved survey of consumer agencies worldwide and prepared a summary intelligence report which provides consumer agencies with additional insight into the issues consumers are facing in various jurisdictions.

Working efficiently

As a Crown entity, funded by New Zealanders, it is vital that we operate in the most efficient and effective way.

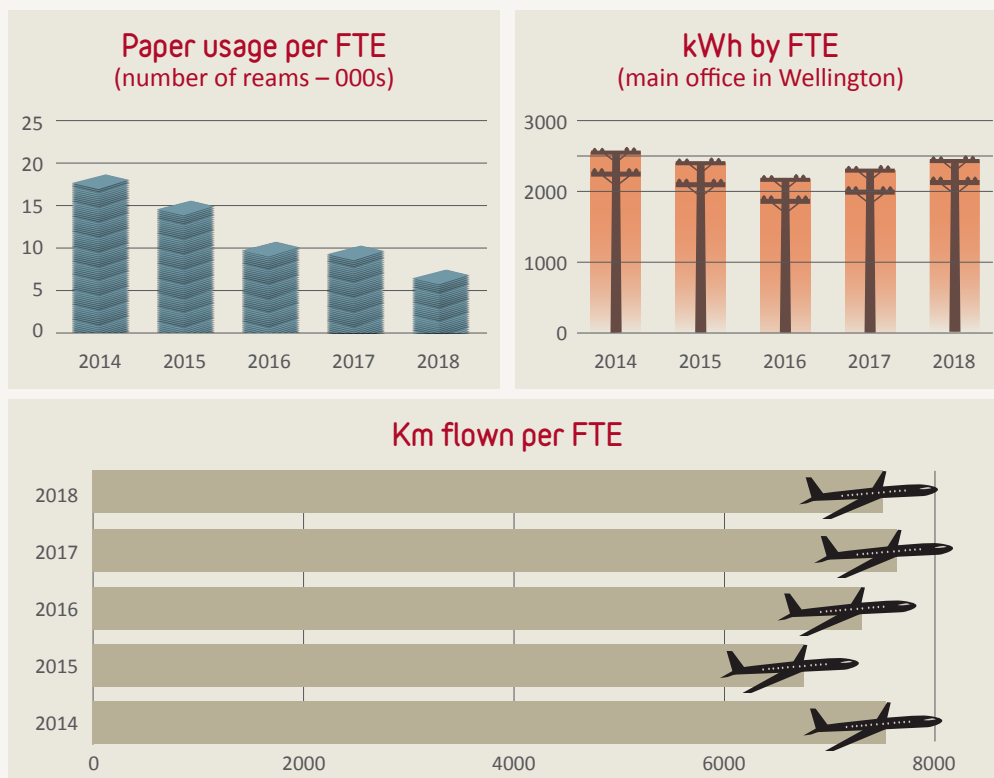
We understand the impact our processes and decisions can have on businesses and are committed to improving the efficiency and timeliness of our decisions.

We also continue to look for ways to save on back office costs. This includes sharing reception and meeting room facilities with the Tertiary Education Commission in Wellington, and providing information services to the Electricity Authority by hosting their IT infrastructure and providing Chief Information Officer and IT helpdesk services.

Environmental sustainability

We are committed to minimising our impact on the environment. We monitor our flight, paper and energy usage and continue to look for ways to reduce our environmental footprint.

Between 2014 and 2018 we have more than halved our paper use which has saved a significant amount of money and limited our environmental impact. We managed this through a range of initiatives, including the rollout of 'Follow-Me' printing, the introduction of mobile devices and technology, default duplex printing, greater support for flexible working arrangements, and enhanced filing protocols.



Being a good employer

Having excellent people is critical to our success. A great job is about more than just the work. It means fostering a great working environment and culture of the organisation. Our focus continues to be on attracting, supporting and developing our people, in line with the following seven elements of being a good employer, as set out by the New Zealand Human Rights Commission.

Elements	Initiatives
Leadership, Accountability and Culture	We continue to strengthen our leadership capability by growing and developing our leaders, through coaching and other development initiatives. We have also established a staff-led Diversity Network to promote diversity and inclusion.
Recruitment, Induction and Selection	We are focused on recruiting excellent people. We have also strengthened our induction programmes to ensure new staff get up to speed as quickly as possible.
Employee Development, Promotion and Exit	We are currently refreshing our capability management framework and developing an approach to career development. Our Commission-wide training programme provides development opportunities for all staff. These are supplemented with targeted development programmes for individuals which are reviewed annually.
Flexibility and Work Design	We have a Flexible Working Policy and continue to accommodate and support flexible working arrangements to suit personal circumstances.
Remuneration, Recognition and Conditions	We adhere to the Government Expectations on Employment Relations in the State Sector. We are completing a remuneration review to ensure we can continue to attract and retain the best people.
Harassment and Bullying Prevention	We have a zero tolerance approach to harassment and bullying. Our organisational values, together with our Code of Conduct and our Harassment Policy, detail our expected behaviours.
Safe and Healthy Work Environment	Our health, safety and wellness framework ensures we maintain a healthy and safe working environment. We comply with workplace health and safety laws and have safe operating procedures for a number of potential risks specific to our business. We also have a wellness programme which offers a range of health initiatives, including in the areas of resilience and mental health.



Evaluating our capability and health

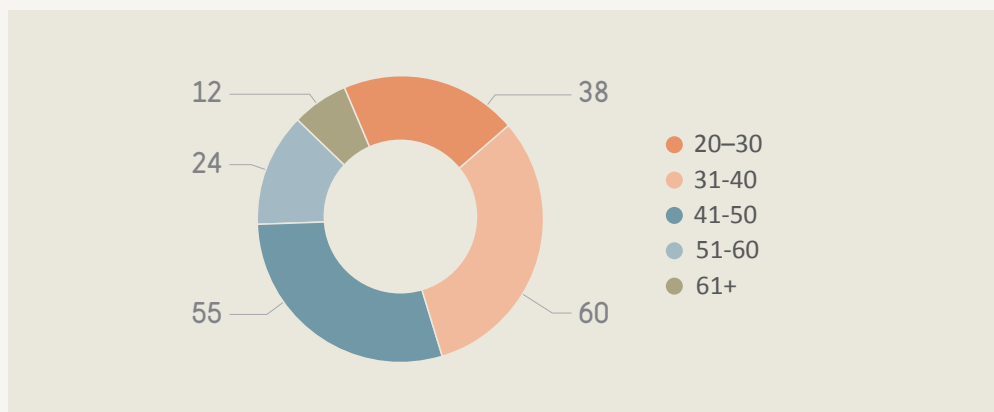
In our SOI 2017-2022 we set out the measures to monitor our organisational health and capability. We do not set targets for staff turnover and average years of service but aim to ensure these reflect a sustainable level.

Measure	2018	2017	2016
Overall level of employee engagement	In development	73.6%	68.6%
Employee turnover	13.2%	25.3%	11.6%
Average number of years at the Commission	5.8	5.3	5.7

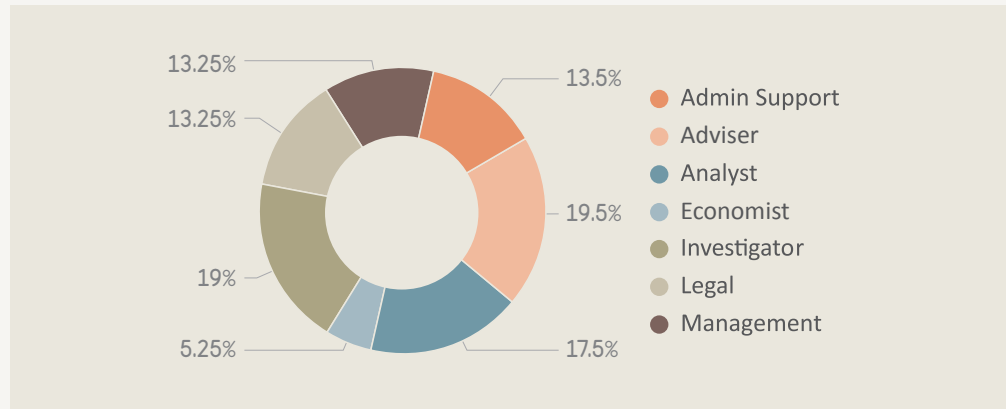
Profile of our people at 30 June

	2018	2017	2016
Number of employees (FTE)	184	189	195
Male	53%	56%	58%
Female	47%	44%	42%
Percentage of employees on flexible working arrangements	9.5%	10%	15%

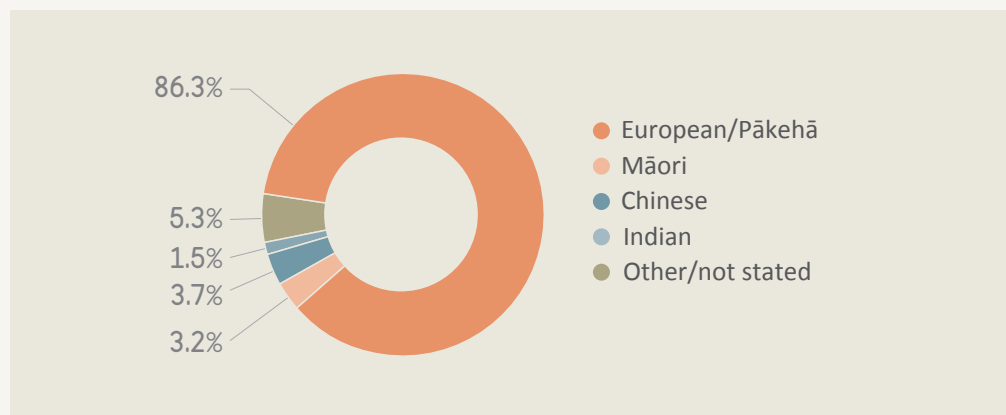
Age profile



Occupation profile



Ethnicity profile



Disability profile

We are currently supporting employees with disabilities and a disability register is held in case of emergency.

Gender pay gap

Median difference between male and female employees	22.7%
Average difference between male and female employees	15.7%

The Commission has a higher number of male staff in technical specialist and middle management roles, particularly in our regulated industries work, and more women in our administrative and support roles. The Commission has compared gender pay across comparable roles, and this shows a gap close to zero.

The Commission is actively looking to close the overall gender pay gap and grow diversity. We will focus on the pipeline for recruitment of women to specialist and middle management roles, through our *People Strategy*, and our diversity and inclusive policies.

Measuring our outputs

This section provides detailed reporting on our output performance against our targets, as included in our SPE 2017/18. Where appropriate, we have included comparative performance information against the performance measures and results for prior years. Our performance targets for 2017/18 are also included to provide context to the results. We have provided commentary for measures where we have not met our targets.

Competition and consumer

This section reports on the performance measures contained in our SPE 2017/18, as well as the Estimates of Appropriations 2017/18 under the Vote Business, Science and Innovation: Enforcement of General Market Regulation appropriation.

Measures	2016 actual	2017 actual	2018 target	2018 actual	Comments
Number of merger clearance applications processed (demand driven)	12	6	10-22	9	This is a demand driven measure
Number of authorisation applications processed (demand driven)	1	3	0-4	1	
Percentage of decisions on merger clearance applications made within 40 working days from date of registration ³	N/A – new in 2016/17	33.3%	75%	11%	Refer to Note 1
Percentage of decisions on merger clearance applications made within 40 working days when no letter of issues is sent to parties ³	N/A – new in 2017/18	N/A – new in 2017/18	75%	20%	When no letter of issues was sent to parties, the Commission took an average of 45 working days to complete these cases during 2017/18
Average number of working days from date of decision to date of publication of reasons for declined merger clearance applications	8 days	32.5 days	10 days	27 days	Refer to Note 2
Numbers of mergers, clearances and authorisations under the Commerce Act completed	9	8	6-20	13	
Number of Fair Trading Act matters completed	257	235	175-300	206	

3. This measure includes a 'stop the clock' provision. The criteria for stopping the clock are:

- 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.

Measures	2016 actual	2017 actual	2018 target	2018 actual	Comments
Number of product safety and information standards matters completed	87	108	75-150	103	
Number of CCCF Act matters completed	56	53	50-100	131	
Percentage of investigations decided within 12 months of the investigation being opened	91%	96%	95%	88%	Refer to Note 3

Note 1

Percentage of decisions on merger clearance applications made within 40 working days from date of registration and when no letter of issues is sent to parties

A 40 working day clearance target is generally only achievable in straightforward cases. The voluntary nature of the clearance regime means that many clearance applications raise competition issues that require scrutiny to ensure consumers are not harmed by mergers that may substantially lessen competition. The majority of merger cases the Commission reviewed in the past year were not straightforward and not resolved within our target timeframe.

Note 2

Average number of working days between the date of the decision to the date of publication of reasons for declined clearance applications

The Commission declined two clearance applications during 2017/18. The Vero/Tower reasons were published 5 working days after the decision date. The Trade Me/Limelight reasons were published 48 working days after the decision date. This was due to the complex nature of the case. Businesses will benefit from the guidance provided in these reasons on issues that were novel in the New Zealand context.

Note 3

Percentage of investigations decided within 12 months of the investigation being opened

Timeliness across the Commission's investigations was below target for 2018 for various reasons. Responsible lending cases have proved to be especially complex and time consuming. More generally, some traders have been very slow to provide information in response to information requests. Resourcing and process changes implemented during 2018 will help ensure that new investigations opened over the coming year are completed within 12 months.



Finances

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 recoveries for shared corporate services with other state sector agencies.

The table below outlines the revenue and expenditure relating to the delivery of the competition and consumer outputs:

	2018 Actual \$000	2018 Budget \$000
Operating revenue		
Revenue – Crown	18,573	17,823
Other revenue	927	1,120
Total operating revenue	19,500	18,943
Total operating expenses	18,579	18,938
SURPLUS	921	5

The \$921,000 surplus for the competition and consumer output class was higher than budget.

Revenue – Crown was more than budgeted as the enactment of the cartels bill resulted in an additional \$750,000 of funding occurring after the budget was completed. The output class received lower than expected other revenue, mainly as a result of lower interest income.

Enforcement expenditure was higher than budget due to increased staff activity that resulted from higher than anticipated activity in the market structure and coordinated behaviour areas. This over spend was offset by lower staff salary costs in the determinations and advocacy areas.

Appropriation funding

The following table shows the funding made available by the Crown through the Estimates and Supplementary Estimates compared with that recognised by the Commission in the year for the appropriation Vote Business, Science and Innovation: Enforcement of General Market Regulation.

	Estimates \$000	Supplementary Estimates \$000	Actual \$000	Difference vs Supplementary Estimates \$000
Revenue – Crown	17,823	18,573	18,573	0
Total	17,823	18,573	18,573	0

Regulated industries

This section reports on the performance measures contained in our SOI 2017-2022 and our SPE 2017/18, and the measures in the Estimates of Appropriations 2017/18 under Vote Business, Science and Innovation:

- Enforcement of Telecommunications Sector Regulation
- 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.

Measures	Output class	2016 actual	2017 actual	2018 target	2018 actual
Number of determinations (includes determinations, clarifications, reviews and amendments)	Telecommunications	6	13	0-3	4
	Electricity	8	8	3-12	11
	Gas	7	10	2-4	6
	Airports	3	4	0-2	3
Average time to complete telecommunications determinations ⁴	Telecommunications	4 months	5 months	6 months	6 months
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	Electricity	100%	100%	100%	100%
	Gas	100%	100%	100%	100%
	Airports	100%	100%	100%	100%
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	Telecommunications	4	3	1-3	1
	Electricity	2	4	2-5	2
	Gas	2	1	1-2	2
	Airports	1	1	0-3	0
	Dairy	3	2	2	2
Number of Part 4 inquiries completed	Part 4 inquiries	N/A—new measure	N/A—new measure	0-1	0

In addition to the output measures outlined above, our assessment of regulated suppliers providing strong and sustainable infrastructure that benefits New Zealanders in the telecommunications sector was introduced as an additional output measure in Supplementary Estimates 2017/18 for Vote Business, Science and Innovation. The result for this output measure is reported on page 14.

4. This measure only includes routine determinations that are completed on a regular basis. Distinct one-off determinations are excluded, as inclusion would skew the average for the year in which they were completed so it is no longer comparable with other years.

Finances

Our regulation work is primarily funded by the Crown through the five appropriations, with our work under Part 4 of the Commerce Act funded by three multi-year appropriations, each for an initial 5-year period (2014-2019).

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

Financial information for our regulation work is shown below. For the sectors funded by multi-year appropriations, we have also provided graphs showing the proportion of the Crown funding drawn down in 2018.

Telecommunications

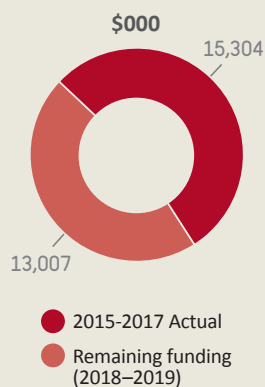
	2018 Actual \$000	2018 Budget \$000
Operating revenue		
Revenue – Crown	6,229	6,499
Other revenue	566	542
Total operating revenue	6,795	7,041
Total operating expenses	6,795	7,041
SURPLUS	0	0

Expenditure in the Telecommunications output class was below budget. There was a small over-spend in the public reports work stream due to higher than anticipated staff activity in this area. This was partly as a result of work associated with the review of the Telecommunications Act. This over-spend was offset by lower expenditure in the determinations and compliance areas.

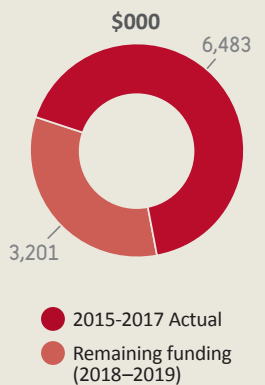
Other revenue included \$476,000 from invoicing applicants for a portion of the final pricing principle (FPP) costs.



Crown funding used and remaining between 2015 and 2019



Crown funding used and remaining between 2015 and 2019



Electricity lines services

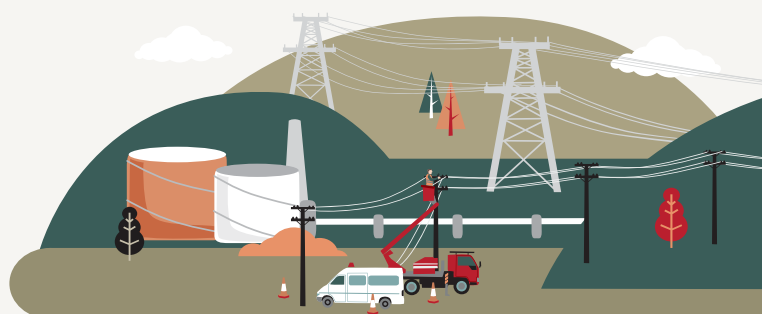
	2018 Actual \$000	2018 Budget \$000
Operating revenue		
Revenue – Crown	5,304	5,294
Other revenue	1,494	1,387
Total operating revenue	6,798	6,681
Total operating expenses	6,798	6,681
SURPLUS	0	0

Expenditure in the Electricity output class was \$117,000 more than budget. This was mainly due to a second, unbudgeted application for a customised price-quality path (CPP) assessment. Costs associated with CPP assessments are recovered from the applicants as other revenue. There was also a slight over-spend in non-CPP expenditure, explained in part by higher expenditure to improve our understanding of the performance of the industry.

Natural gas pipeline services

	2018 Actual \$000	2018 Budget \$000
Operating revenue		
Revenue – Crown	1,152	1,434
Other revenue	20	14
Total operating revenue	1,172	1,448
Total operating expenses	1,172	1,448
SURPLUS	0	0

Gas output class expenditure was less than budget. The under-spend was mainly due to lower than expected internal resourcing and external consultant costs in the public reports and advice to officials work stream. Compliance and enforcement expenditure was also less than budget.



Airport services

	2018 Actual \$000	2018 Budget \$000
Operating revenue		
Revenue – Crown	753	932
Other revenue	8	6
Total operating revenue	761	938
Total operating expenses	761	938
SURPLUS	0	0

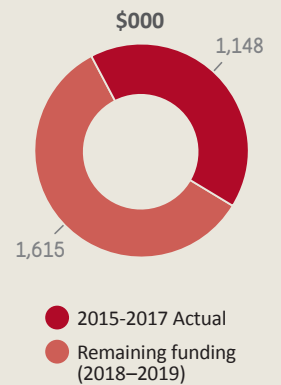
Expenditure in the Airports output class was less than budget mainly because of lower costs in the public reports and advice to officials work stream. Lower public reports costs offset a small over-spend in the determinations area.

Dairy

	2018 Actual \$000	2018 Budget \$000
Operating revenue		
Revenue – Crown	566	748
Other revenue	9	6
Total operating revenue	575	754
Total operating expenses	575	754
SURPLUS	0	0

Expenditure in the Dairy output class was below budget. Expenditure related to the 2017/18 season reviews of Fonterra’s milk price manual and base milk price calculation was less than budget. There were no determinations during the year and minimal compliance activity was required.

Crown funding used and remaining between 2015 and 2019



Appropriation funding

The table below shows the funding made available by the Crown through the Estimates and Supplementary Estimates compared with that recognised by the Commission in the year for each of our regulation appropriations.

	Estimates \$000	Supplementary Estimates \$000	Actual \$000	Difference vs Supplementary Estimates \$000
Vote Business, Science and Innovation: Enforcement of Telecommunications Sector Regulation				
Revenue – Crown	6,500	6,750	6,229	(521)
Vote Business, Science and Innovation: Economic Regulation of Electricity Lines Services 2014-2019 (MYA)				
Cumulative funding to 1 July 2017	16,662	16,086	16,086	0
Revenue – Crown	5,280	5,294	5,304	10
Cumulative funding to 30 June 2018	21,942	21,380	21,390	10
Remaining appropriation	7,151	7,713	7,703	(10)
Total appropriation	29,093	29,093	29,093	0
Vote Business, Science and Innovation: Economic Regulation of Gas Pipeline Services 2014-2019 (MYA)				
Cumulative funding to 1 July 2017	7,029	6,665	6,665	0
Revenue – Crown	1,430	1,434	1,152	(282)
Cumulative funding to 30 June 2018	8,459	8,099	7,817	(282)
Remaining appropriation	1,407	1,767	2,049	282
Total appropriation	9,866	9,866	9,866	0
Vote Business, Science and Innovation: Economic Regulation of Specified Airport Services 2014-2019 (MYA)				
Cumulative funding to 1 July 2017	1,557	1,275	1,275	0
Revenue – Crown	677	932	753	(179)
Cumulative funding to 30 June 2018	2,234	2,207	2,028	(179)
Remaining appropriation	656	683	862	179
Total appropriation	2,890	2,890	2,890	0
Vote Business, Science and Innovation: Enforcement of Dairy Sector Regulation and Auditing of Milk Price Setting				
Revenue – Crown	757	757	566	(191)

Major litigation

This section reports on the performance measures contained in our SPE 2017/18, as well as the Estimates of Appropriations 2017/18 under the Vote Business, Science and Innovation: Commerce Commission Litigation Funds MCA.

We undertake litigation across functions where we believe this is likely to achieve the most effective outcome. Major litigation funding is used where cases meet the conditions for accessing the fund.

Our litigation workload varies considerably each year based on the:

- number and types of cases we choose to litigate or which are brought against us
- appeals we defend
- complexity of the cases we have before us
- court timetables
- parties' approaches towards the litigation.

Measure	2016 actual	2017 actual	2018 target	2018 actual
Using the Fund according to conditions for use	Achieved	Achieved	Achieved	Achieved

Finances

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 a share of the revenue from shared services cost recoveries.

	2018 Actual \$000	2018 Budget \$000
Externally-sourced litigation		
Operating revenue		
Revenue – Crown	5,403	6,482
Total operating revenue	5,403	6,482
Total operating expenses	5,687	6,482
SURPLUS	(284)	0

	2018 Actual \$000	2018 Budget \$000
Internally-sourced litigation		
Operating revenue		
Revenue – Crown	3,317	3,473
Other revenue	47	46
Total operating revenue	3,364	3,519
Total operating expenses	3,364	3,519
SURPLUS	0	0

Externally-sourced litigation expenditure was below budget as the Commission successfully reached settlements and resolved some matters more quickly than expected. The Commission budgets for litigation based on the planned court process at the start of the year.

Internally-sourced litigation expenditure was also less than budget. The early settlement of some cases meant that less time was spent on litigation than expected.

Appropriation funding

The table below shows the funding made available by the Crown through the Estimates and Supplementary Estimates compared with that recognised by the Commission in the year for the appropriation Vote Business, Science and Innovation: Commerce Commission Litigation Funds MCA.

	Estimates \$000	Supplementary Estimates \$000	Actual \$000	Difference vs Supplementary Estimates \$000
Commerce Commission externally-sourced litigation				
Revenue – Crown	7,000	7,000	5,403	(1,597)
Commerce Commission internally-sourced litigation				
Revenue – Crown	3,500	3,500	3,317	(183)
Total	10,500	10,500	8,720	(1,780)



Our governance

Board and Commissioner responsibilities

The Governor-General, on the recommendation of the Minister of Commerce and Consumer Affairs, appoints Commission Members. The Telecommunications Commissioner is appointed on the recommendation of the Minister of Broadcasting, Communications and Digital Media. Associate Commissioners are appointed by Minister of Commerce and Consumer Affairs.

Decision making

The Commission's functions and powers are conferred and limited by legislation. In addition to its governance functions, the Board has a wide range of formal decision-making powers to make decisions and determinations that significantly affect the legal rights, duties, and interests of others. The Chairman establishes sub-groups called Divisions to administer and enforce the laws under their specific responsibility.

Governance of the organisation

The Board discharges the functions and requirements of the Commission in several ways, including:

- monitoring the Commission's performance and planning its strategic direction
- using delegations to make our work more efficient, including delegating authority to the Chief Executive
- using advisory committees to the Board, such as the Audit, Finance and Risk Management (AFRM) Committee
- overseeing a broad variety of strategies, policies, processes, systems, frameworks and analytical approaches that help ensure effective decision making.

Managing risk

We actively manage risk at the Commission to increase the likelihood of achieving our objectives. The Board is responsible for reviewing and approving our risk management framework but delegates day-to-day management of risk to the Chief Executive. This delegation ensures that risk is seen as part of the overall business process, with a robust framework of identification, evaluation, monitoring and control in place.

Health and safety

The Board has overall responsibility for managing health and safety, including exercising due diligence to ensure the Commission complies with its duties under workplace health and safety laws and actively engages in matters affecting the health, safety and wellness of staff.

Conflicts of interest

The Board maintains a register of interests, which ensures Board members are aware of their obligation to declare interests under the relevant provisions of the Crown Entities Act 2004.

Ministerial directions

The Minister of State Services and the Minister of Finance have communicated the following directions to the Commission under section 107 of the Crown Entities Act:

- Procurement functional leadership (*New Zealand Gazette*, 19 June 2014). We have continued to comply with the Government Rules of Sourcing in support of a whole-of-government approach to procurement.
- Support for a whole-of-government approach to the New Zealand Business Number (NZBN) (*New Zealand Gazette*, 14 July 2016). We have integrated the NZBN as the primary identifier for relevant businesses in our core system, Streamline. In May 2017 we implemented lookup functions, bringing business data into the system from the NZBN database via MBIE's online interfaces. MBIE has expressed interest in using the Commission's implementation of NZBN as a case study.

Commission Member profiles



Dr Mark Berry

Chairman

Mark Berry was appointed Chairman in April 2009 and reappointed for a further 5 year term in December 2013. His current term is due to expire in May 2019. He is a former partner of law firm Bell Gully and former consultant with Chapman Tripp. Mark has been in practice as a barrister sole since 2002 and holds a doctorate from Columbia University, New York. He is a former member of the faculty at Otago University Law School and is a member of the International Advisory Board at the Institute for Consumer Antitrust Studies at Loyola University Chicago School of Law. Mark is also an Associate Member of the Australian Competition and Consumer Commission.



Sue Begg

Deputy Chair

Sue Begg was appointed as a Commissioner in June 2009 and Deputy Chair in July 2010. Her term was renewed for a further 5 years in December 2013. She was also appointed as an Associate Member of the Australian Competition and Consumer Commission in April 2016. Sue is an economist. Her previous roles include director of the consultancy company Impetus Group Limited, Vice-President and head of the economic advisory unit of the investment banking division of Credit Suisse First Boston NZ Limited (and its predecessor companies), and manager of the Macroeconomic Policy section at the Treasury.



Dr Stephen Gale

Telecommunications Commissioner

Stephen Gale was appointed as the Telecommunications Commissioner in July 2012, with his term renewed for a further 3 years in June 2017. Prior to this, he was an Associate Commissioner for 2 years. Stephen specialised for some years in infrastructure economics (energy, telecommunications and transport) and competition proceedings at the consulting firm Castalia. Before that, he was at the New Zealand Institute of Economic Research. He holds a PhD from the University of Cambridge.



Anna Rawlings

Commissioner

Anna Rawlings was appointed as a Commissioner in June 2014 for a 5-year term. She was previously a partner in the dispute resolution division of Minter Ellison Rudd Watts, where she specialised in aspects of competition, regulatory and consumer law. Anna holds a BA/LLB (Hons) from the University of Auckland and an LLM from the University of Toronto, where her work focused on law and economics.



Elisabeth Welson

Commissioner

Elisabeth Welson was appointed in September 2012 as Associate Commissioner and as a Commissioner in August 2013 for a 5-year term. Before joining the Commission, she was a senior commercial partner at Simpson Grierson, where she co-led the competition and regulatory group and headed the energy, natural resources, and utilities market group. Elisabeth holds an LLB (Hons) from the University of Auckland. She has practised as a Barrister and Solicitor in New Zealand, as well as a Solicitor of the Supreme Court of Queensland, and Solicitor of the Supreme Court of New South Wales.

Dr Jill Walker

Commissioner

Jill Walker was appointed as a Commissioner in December 2015 for a 5-year term. This followed her appointment as an Associate Commissioner in November 2010. She was a Commissioner of the Australian Competition and Consumer Commission from September 2009 to April 2016. Before joining the ACCC, Jill was a Member of the Australian Competition Tribunal and worked as an economic consultant. She is currently a member of the Bureau of the OECD's Competition Committee. She holds a BA in Economics and a PhD in Land Economy from the University of Cambridge, and an MA in Economics from the University of Massachusetts.



Sarah Court

Associate Commissioner

Sarah Court was cross-appointed from the Australian Competition and Consumer Commission as an Associate Commissioner in December 2015 for a 5-year term. She has been a Commissioner of the ACCC since April 2008. She is a former senior executive lawyer and director with the Australian Government Solicitor. She has extensive experience in Commonwealth legal work, including restrictive trade practices, consumer protection, and law enforcement litigation. As Chair of the ACCC's Enforcement Committee, Sarah oversees the agency's enforcement and litigation programme. She also sits on the ACCC's Merger Review Committee, Adjudication Committee, and the Infrastructure Committee.



Roger Featherston

Associate Commissioner

Roger Featherston was cross-appointed from the Australian Competition and Consumer Commission as an Associate Commissioner in April 2018 for a 5-year term. He has been a Commissioner of the ACCC since June 2014. He chairs the Mergers Review Committee and Adjudication Committee, and is a member of their Enforcement Committee and Communications Committee. Roger was a special counsel for the ACCC from 2012 to 2014, focusing on enforcement projects in respect of supermarkets and petrol retailing. He is a former competition and regulatory law partner at Mallesons Stephen Jaques.



The Hon Sir Bruce Robertson KNZM and Michael Behrens QC were Cease and Desist Commissioners for the full year. Their terms have ended on 26 October 2018.

Fred Hutchings is our external Convenor of the Audit, Finance and Risk Management Committee. Fred was a partner with PricewaterhouseCoopers and now holds several governance roles, including as Chairman of Seeka Kiwifruit Industries Ltd and Tui Products Limited, Chairman of the OAG Audit and Risk Committee, and former Chairman of the Ministry of Foreign Affairs and Trade Audit and Risk Committee. He is also a Past President of Chartered Accountants Australia and New Zealand.

Senior Leadership Team profiles



Adrienne Meikle

Chief Executive

Adrienne Meikle joined the Commission in May 2018. Before this, Adrienne held senior leadership positions at the Ministry of Business, Innovation and Employment, most recently as Deputy Chief Executive, Corporate, Governance and Information Group. She has extensive experience across the public sector. Prior to joining MBIE in 2012, she held the roles of Acting Deputy Secretary, Tourism, Events and Consumer Affairs, Director of Legal in the former Ministry of Economic Development, Chief Legal Advisor in the former New Zealand Food Safety Authority, and Parliamentary Counsel and Private Secretary in the Attorney-General's office. Adrienne has also worked for the Department of Corrections and Ministry of Education and has a BA LLB and an LLM (Hons).



Antonia Horrocks

General Manager Competition and Consumer

Antonia Horrocks manages the Commission's Competition and Consumer branch. She joined the Commission in August 2016 from the UK's Competition & Markets Authority. Prior to joining the UK regulator, she worked as an antitrust lawyer in London for nearly a decade, most recently as Counsel at Shearman & Sterling (LLP) in London. She started her career in New Zealand and has a law degree, a BA (Hons) in English, and a Postgraduate Diploma in EU Competition Law.



Nick Russ

General Manager Regulation

Nick Russ manages the Commission's regulatory functions across a number of sectors, including electricity lines, gas pipelines, major airports, telecommunications and dairy. He was previously Head of Part 4 and Dairy. Nick joined the Commission in November 2010 as a Chief Adviser in the Regulation Branch working across a range of regulatory issues. Before joining the Commission he spent a number of years working for energy regulators in the UK and Australia. Nick has a degree in electrical engineering and is a chartered engineer.



Geoff Williamson

General Manager Organisation Performance

Geoff Williamson joined the Commission in July 2011 and leads the organisation performance functions. Geoff was Acting Chief Executive for the Commission between January and May 2018. He was previously Director Corporate Services at the Tertiary Education Commission, and Chief Financial Officer at the National Library of New Zealand, and has held a range of roles at Deloitte. Geoff has a BCA from Victoria University of Wellington and an Executive Master of Public Administration through the Australia and New Zealand School of Government and is a Chartered Accountant.

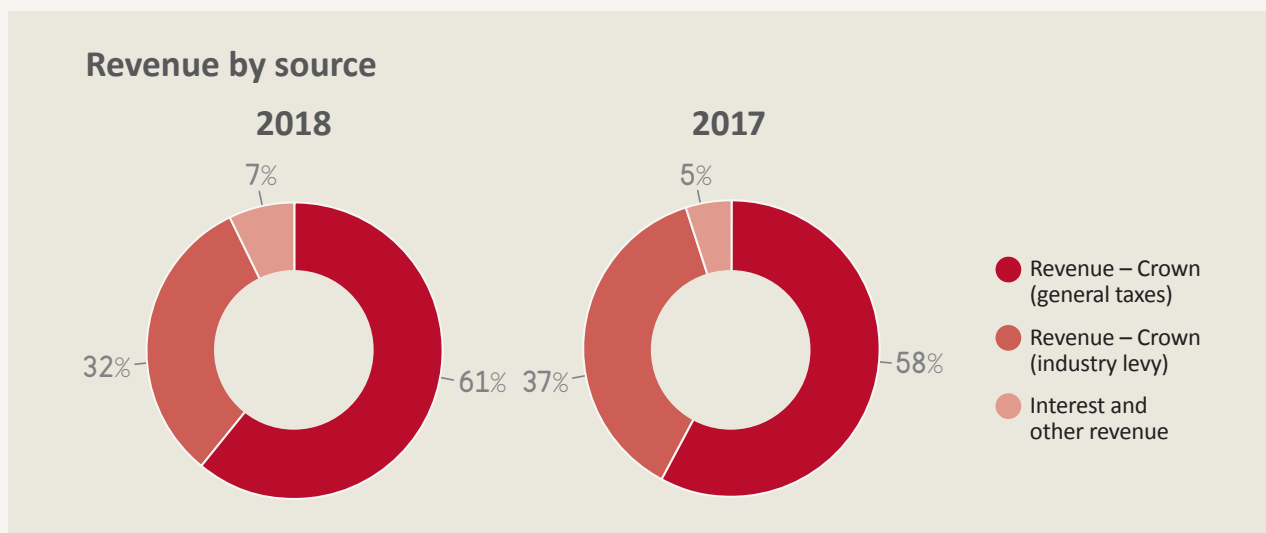
Financial performance

Financial statements overview

The Commission's financial results and our financial position show that we continue to operate sustainably. This section provides an overview of our financial statements for the year ended 30 June 2018.

Revenue

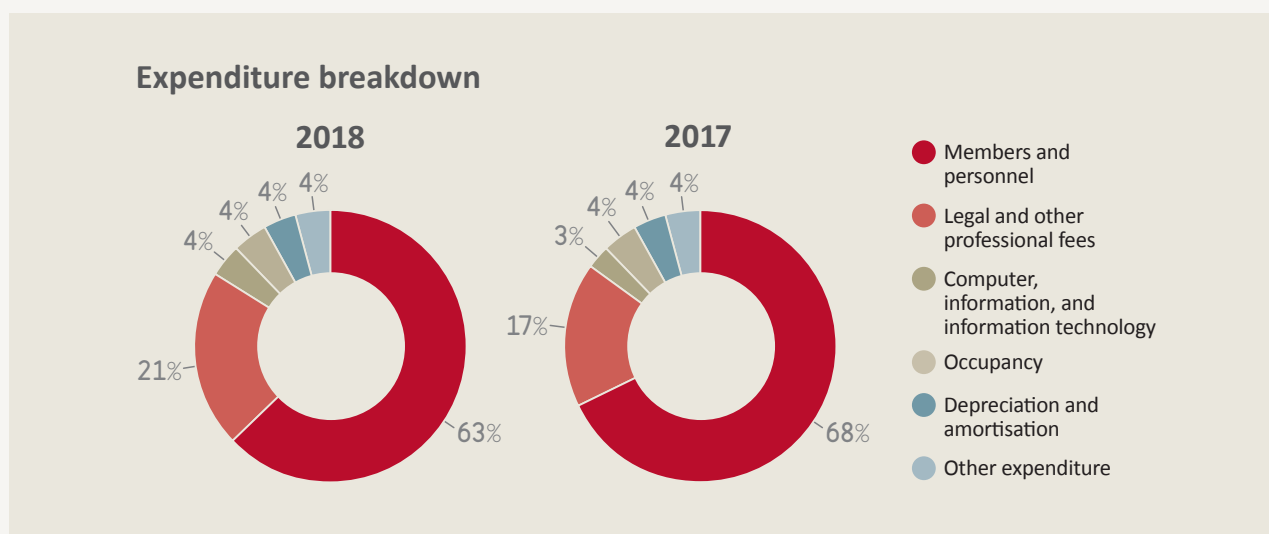
The Commission recorded revenue of \$44 million, compared with budgeted revenue of \$46 million for the financial year and revenue of \$40 million in the prior year. Accounting rules limit us to only recognising Crown-sourced revenue to the extent that expenditure has been incurred. The largest contribution to our revenue is from the Crown, through a combination of general taxes and industry levies. Other sources of revenue include interest on cash we hold, court cost awards from litigation, and application fees paid by businesses seeking clearances and other determinations.



The Crown funding received as appropriations provides us with the resources to complete a number of work streams. The funding is a maximum amount we may spend (excluding revenue from other sources) for each stream. We budget to produce our work within this funding. In the earlier part of this annual report, we have provided tables for each work stream showing total revenue and expenses.

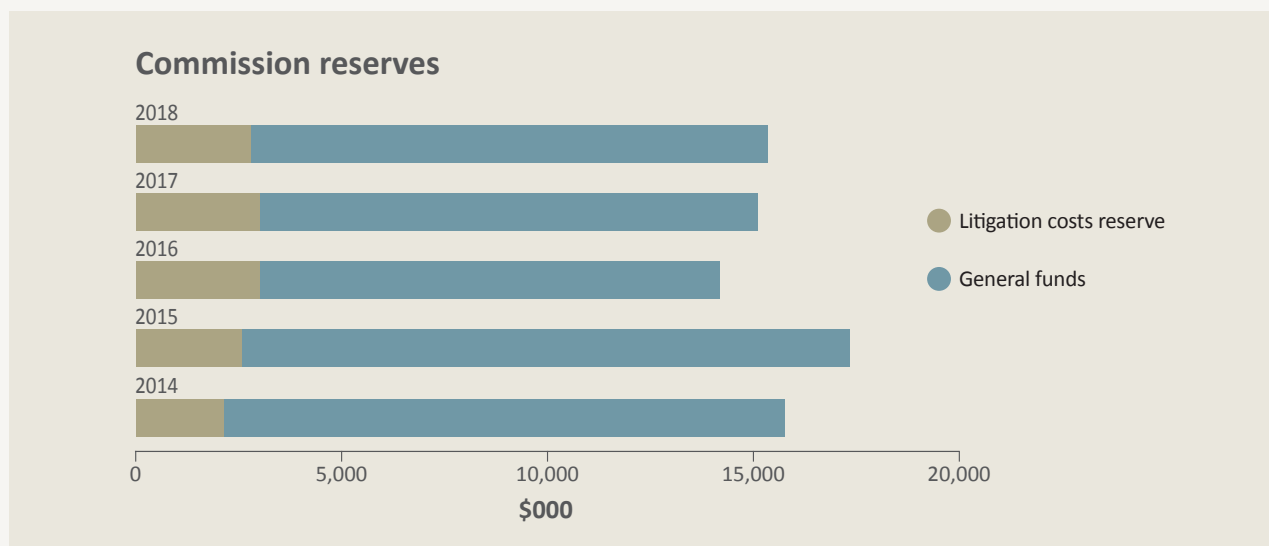
Expenditure

This year we spent \$44 million, compared with a budgeted spend of \$46 million and a prior year spend of \$39 million. The graphs below show a breakdown of our expenditure by nature.



As an entity our focus is on the delivery of services, such as determinations and enforcement, by highly skilled people. Our expenditure on personnel makes up approximately two-thirds of our total expenditure. We also spend another 20% on legal and other professional consultants who provide support to us with specialist expertise, such as for litigation cases. The remainder is attributable to costs such as accommodation, information technology, and travel.

Financial position



We maintain reserves at a level which allows us to manage litigation risks and other financial risks. These risks are diverse, but can involve large unanticipated expenditures in a relatively short timeframe. For instance, if we lose a large multi-party litigation case, we may have to pay large adverse cost awards to the winning parties. Alternatively, we may have to incur unplanned expenditure on a Part 4 inquiry or a large merger clearance or authorisation (including legal costs) while continuing to deliver our business as usual activities.

The Commission's equity (or reserves) at 30 June 2018 was \$15.8 million, an increase of \$0.6 million from 30 June 2017. This increase is a result of a surplus in our competition and consumer output class, offset by providing for a court cost award in a litigation case in which we were unsuccessful (which we are appealing). This provision has resulted in a small decrease in our litigation costs reserve from its \$3 million cap.

Statement of responsibility

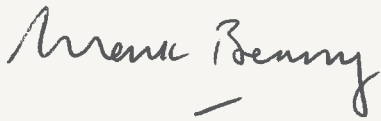
Under the Crown Entities Act 2004, the Board of the Commerce Commission is responsible for the preparation of the Commission's financial statements and statement of performance, and for the judgements made in them.

We are also responsible for any end-of-year performance information provided by the Commission under section 19A of the Public Finance Act 1989.

The Commission's Board is also responsible for establishing, and has established, a system of internal controls designed to provide reasonable assurance of the integrity and reliability of our financial reporting.

In the Board's opinion, these financial statements and the statement of performance reflect a true and fair view of the financial position, and results of the operations, of the Commission for the year ended 30 June 2018.

Signed on behalf of the Board:



Dr Mark Berry

Chairman – Commerce Commission

31 October 2018



Sue Begg

Deputy Chair – Commerce Commission

31 October 2018

Independent auditor's report

To the readers of the Commerce Commission's financial statements and performance information for the year ended 30 June 2018.

The Auditor-General is the auditor of the Commerce Commission (the Commission). The Auditor-General has appointed me, Karen Young, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements and the performance information, including the performance information for appropriations, of the Commission on his behalf.

Opinion

We have audited:

- the financial statements of the Commission on pages 55 to 79, that comprise the statement of financial position as at 30 June 2018, the statement of comprehensive revenue and expense, statement of changes in equity, statement of cash flows and statement of accounting policies for the year ended on that date and the notes to the financial statements including other explanatory information; and
- the performance information of the Commission on pages 10 to 21 and 35 to 44.

In our opinion:

- the financial statements of the Commission on pages 55 to 79:
 - > present fairly, in all material respects:
 - its financial position as at 30 June 2018; and
 - its financial performance and cash flows for the year then ended; and
 - > comply with generally accepted accounting practice in New Zealand in accordance with Public Benefit Entity Reporting Standards; and
- the performance information on pages 10 to 21 and 35 to 44:
 - > presents fairly, in all material respects, the Commission's performance for the year ended 30 June 2018, including:
 - for each class of reportable outputs:
 - its standards of delivery performance achieved as compared with forecasts included in the statement of performance expectations for the financial year; and
 - its actual revenue and output expenses as compared with the forecasts included in the statement of performance expectations for the financial year; and
 - what has been achieved with the appropriations; and
 - the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure.
 - > complies with generally accepted accounting practice in New Zealand.

Our audit was completed on 31 October 2018. This is the date at which our opinion is expressed.

The basis for our opinion is explained below. In addition, we outline the responsibilities of the Board and our responsibilities relating to the financial statements and the performance information, we comment on other information, and we explain our independence.

Basis for our opinion

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the Professional and Ethical Standards and the International Standards on Auditing (New Zealand) issued by the New Zealand Auditing and Assurance Standards Board. Our responsibilities under those standards are further described in the Responsibilities of the auditor section of our report.

We have fulfilled our responsibilities in accordance with the Auditor-General's Auditing Standards.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of the Board for the financial statements and the performance information

The Board is responsible on behalf of the Commission for preparing financial statements and performance information that are fairly presented and comply with generally accepted accounting practice in New Zealand. The Board is responsible for such internal control as it determines is necessary to enable it to prepare financial statements and performance information that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements and the performance information, the Board is responsible on behalf of the Commission for assessing the Commission's ability to continue as a going concern. The Board is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless there is an intention to merge or to terminate the activities of the Commission, or there is no realistic alternative but to do so.

The Board's responsibilities arise from the Crown Entities Act 2004 and the Public Finance Act 1989.

Responsibilities of the auditor for the audit of the financial statements and the performance information

Our objectives are to obtain reasonable assurance about whether the financial statements and the performance information, as a whole, are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit carried out in accordance with the Auditor-General's Auditing Standards will always detect a material misstatement when it exists. Misstatements are differences or omissions of amounts or disclosures, and can arise from fraud or error. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of readers, taken on the basis of these financial statements and the performance information.

For the budget information reported in the financial statements and the performance information, our procedures were limited to checking that the information agreed to the Commission's statement of performance expectations.

We did not evaluate the security and controls over the electronic publication of the financial statements and the performance information.

As part of an audit in accordance with the Auditor-General's Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. Also:

- We identify and assess the risks of material misstatement of the financial statements and the performance information, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.

- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Board.
- We evaluate the appropriateness of the reported performance information within the Commission's framework for reporting its performance.
- We conclude on the appropriateness of the use of the going concern basis of accounting by the Board and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements and the performance information or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Commission to cease to continue as a going concern.
- We evaluate the overall presentation, structure and content of the financial statements and the performance information, including the disclosures, and whether the financial statements and the performance information represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Board regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Our responsibilities arise from the Public Audit Act 2001.

Other information

The Board is responsible for the other information. The other information comprises the information included on pages 2 to 81, but does not include the financial statements and the performance information, and our auditor's report thereon.

Our opinion on the financial statements and the performance information does not cover the other information and we do not express any form of audit opinion or assurance conclusion thereon.

In connection with our audit of the financial statements and the performance information, our responsibility is to read the other information. In doing so, we consider whether the other information is materially inconsistent with the financial statements and the performance information or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on our work, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Independence

We are independent of the Commission in accordance with the independence requirements of the Auditor-General's Auditing Standards, which incorporate the independence requirements of Professional and Ethical Standard 1 (Revised): Code of Ethics for Assurance Practitioners issued by the New Zealand Auditing and Assurance Standards Board.

Other than in our capacity as auditor, we have no relationship with, or interests, in the Commission.



Karen Young

Audit New Zealand

On behalf of the Auditor General

Wellington, New Zealand

Financial Statements

Statement of comprehensive revenue and expense

for the year ended 30 June 2018

	Notes	2018 Actual \$000	2018 Budget \$000	2017 Actual \$000
Operating revenue				
<i>Revenue from non-exchange transactions</i>				
Revenue – Crown		41,297	42,685	38,403
Court cost awards		38	50	16
Revenue from non-exchange transactions		41,335	42,735	38,419
<i>Revenue from exchange transactions</i>				
Fees and recoveries		2,140	2,044	620
Interest		592	800	684
Other revenue		301	227	309
Total revenue from exchange transactions		3,033	3,071	1,613
Total operating revenue		44,368	45,806	40,032
Operating expenses				
Members and personnel	1	27,733	28,482	26,480
Legal and other professional fees	2	9,302	10,494	6,639
Computer, information, and information technology		1,213	1,444	1,051
Occupancy	3	1,801	1,786	1,759
Depreciation and amortisation		1,813	1,877	1,560
Other expenditure	4	1,869	1,718	1,732
Total operating expenses		43,731	45,801	39,221
Surplus		637	5	811
TOTAL COMPREHENSIVE REVENUE AND EXPENSE		637	5	811

The accompanying statement of accounting policies and notes to the financial statements on pages 59-79 form part of the financial statements.

Statement of changes in equity

for the year ended 30 June 2018

	2018 Actual \$000	2018 Budget \$000	2017 Actual \$000
Balance at 1 July	15,122	15,059	14,311
Comprehensive revenue and expense			
Surplus/(deficit)	637	5	811
Total comprehensive revenue and expense	637	5	811
BALANCE AT 30 JUNE	15,759	15,064	15,122

The accompanying statement of accounting policies and notes to the financial statements on pages 59-79 form part of the financial statements.

Statement of financial position

as at 30 June 2018

	Notes	2018 Actual \$000	2018 Budget \$000	2017 Actual \$000
Equity				
General funds	5	13,043	12,064	12,122
Litigation costs reserve	5	2,716	3,000	3,000
Total equity		15,759	15,064	15,122
Current assets				
Cash and cash equivalents	6	2,446	976	2,702
Fees and recoveries receivable		198	110	346
Short-term investments		14,000	12,000	14,000
Prepayments		528	500	647
Total current assets		17,172	13,586	17,695
Non-current assets				
Property, plant and equipment	7	3,470	3,955	4,174
Intangibles	8	2,266	3,468	2,736
Total non-current assets		5,736	7,423	6,910
Total assets		22,908	21,009	24,605
Current liabilities				
Creditors and other payables	9	1,065	1,360	980
Accrued expenses		432	600	812
Lease incentive		238	238	238
Provisions	10	284	0	99
Penalties and cost awards held in trust	11	214	50	295
Crown funding repayable	12	1,669	63	3,780
Employee entitlements	13	1,881	2,235	1,642
Total current liabilities		5,783	4,546	7,846
Non-current liabilities				
Provisions	10	0	33	33
Lease incentive		1,366	1,366	1,604
Total non-current liabilities		1,366	1,399	1,637
Total liabilities		7,149	5,945	9,483
NET ASSETS		15,759	15,064	15,122

The accompanying statement of accounting policies and notes to the financial statements on pages 59-79 form part of the financial statements.

Statement of cash flows

for the year ended 30 June 2018

	Notes	2018 Actual \$000	2018 Budget \$000	2017 Actual \$000
Cash flows from operating activities				
Crown funding received		44,106	42,748	45,202
Fees and recoveries received		2,580	2,321	800
Receipts and payment of penalties (net)		(65)	0	192
Interest received		622	820	603
Member and employee payments		(27,471)	(28,409)	(26,545)
Supplier payments		(14,494)	(15,854)	(11,812)
Repayment of Crown funding		(4,930)	(3,880)	(8,765)
Goods and services tax (net)		53	(4)	(15)
Net cash inflow from operating activities	14	401	(2,258)	(340)
Cash flows from investing activities				
Investments receipts/(deposits)		0	2,000	(2,000)
Property, plant and equipment sale proceeds		1	0	(9)
Property, plant and equipment purchases		(289)	(288)	(1,892)
Intangible asset purchases		(369)	(1,412)	(1,342)
Net cash inflow/(outflow) from investing activities		(657)	300	(5,243)
Cash flows from financing activities				
Reserves returned to the Crown		0	0	0
Net cash (outflow) from financing activities		0	0	0
Net increase/(decrease) in cash and cash equivalents		(256)	(1,958)	(5,583)
Opening cash and cash equivalents		2,702	2,934	8,285
CLOSING CASH AND CASH EQUIVALENTS	6	2,446	976	2,702

The GST (net) component of operating activities reflects the net GST paid and received from the Inland Revenue Department (IRD). We have presented the GST 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.

The accompanying statement of accounting policies and notes to the financial statements on pages 59-79 form part of the financial statements.

Statement of accounting policies

for the year ended 30 June 2018

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 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.

Measurement base and statement of compliance

We have prepared these financial statements to comply with the requirements of the Crown Entities Act. We prepared these financial statements on a historical cost basis for a going concern to comply with New Zealand Generally Accepted Accounting Practice (GAAP). The Commission authorised the financial statements for issue on 31 October 2018.

The financial statements have been prepared in accordance and comply with Tier 1 PBE accounting standards.

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 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 and budget) information. These are the significant accounting policies:

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

Revenue – Crown – The Commission receives funding via appropriations from the Crown. Revenue – Crown 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 funding is restricted in its use for the purpose of meeting the Commission's objectives and the scope of the relevant appropriations. Revenue – Crown we receive but do not spend is refunded to the Crown after year end for all output classes except Vote Business, Science and Innovation – Enforcement of General Markets Regulation, 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 we recognise any unamortised lease incentive and outstanding obligation for reinstatement as a liability.

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 period in which they are first identified. The estimated useful lives of the major asset classes are:

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 the 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 (GST) – All items in the financial statements are presented exclusive of GST, except for receivables, payables, and unearned Revenue – Crown 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 GST recoverable from, or payable to, the 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. Loans and receivables are initially measured at the amount invested. 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 of property, plant and equipment 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 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 budget has been restated or reclassified where appropriate. The budget comparatives are those approved by the Commission at the beginning of the year for inclusion as prospective financial statements in our 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.

Changes to applicable reporting standards and interpretations

The XRB have issued the following reporting standards which are not yet effective:

- *PBE IFRS 9 Financial Instruments*, which establishes principles for recognising and measuring financial assets, financial liabilities, and some contracts to buy or sell non-financial items. The standard is effective from reporting periods beginning on or after 1 January 2021, with early application permitted. We expect the effect of applying the new standard on our accounts to be minor, and will adopt this standard in line with the wider government sector in our next set of financial statements.
- *PBE IPSAS 38 Employee Benefits*, which replaces the current *PBE IPSAS 25 Employee Benefits* standard for reporting periods beginning on or after 1 January 2019, with early adoption permitted. The accounting and disclosure requirements of the new standard are substantially the same as the current standard and we do not expect any major effect on our accounts, but we have not yet completed a full assessment of any effect from applying the new standard. At this stage we do not expect to apply the new standard early.
- *PBE FRS 48 Service Performance Reporting*, which establishes requirements for Tier 1 and Tier 2 public benefit entities to select and present service performance information. This standard is effective for reporting periods beginning on or after 1 January 2021, with early application permitted. We expect the effect of applying the new standard on our service performance reporting to be minor.

Notes to the financial statements

for the year ended 30 June 2018

1. Members and personnel

	2018 Actual \$000	2017 Actual \$000
Salaries and wages (including annual leave and other entitlements)	25,347	24,435
Defined contribution plan employer contributions	614	588
Redundancy	14	0
Recruitment	412	225
Professional development	436	483
Other employment-related costs	910	749
TOTAL MEMBERS AND PERSONNEL EXPENDITURE	27,733	26,480

Employer contributions to defined contribution plans includes payments to KiwiSaver and the State Sector Retirement Savings Scheme.

During the year ended 30 June 2018, one employee received compensation and other benefits in relation to cessation totalling \$13,750 (2017: \$Nil).

Employee annual remuneration bands over \$100,000

	2018 Actual #	2017 Actual #
\$100,000 – \$110,000	11	12
\$110,001 – \$120,000	12	16
\$120,001 – \$130,000	8	10
\$130,001 – \$140,000	14	4
\$140,001 – \$150,000	5	14
\$150,001 – \$160,000	14	10
\$160,001 – \$170,000	9	4
\$170,001 – \$180,000	1	2
\$180,001 – \$190,000	5	6
\$190,001 – \$200,000	6	4
\$200,001 – \$210,000	1	1
\$210,001 – \$220,000	1	0
\$220,001 – \$230,000	1	1
\$240,001 – \$250,000	1	2
\$250,001 – \$260,000	1	0
\$260,001 – \$270,000	1	1
\$280,001 – \$290,000	2	0
\$390,001 – \$400,000	0	1

2. Legal and other professional fees

	2018 Actual \$000	2017 Actual \$000
Legal consultants	6,244	4,463
Other consultants and experts	1,958	1,219
Specialist support services	793	874
Court award costs	284	0
Other expenses	23	83
TOTAL LEGAL AND OTHER PROFESSIONAL FEES	9,302	6,639

3. Occupancy

	2018 Actual \$000	2017 Actual \$000
Operating leases – rent	1,459	1,432
Other occupancy expenses	342	327
TOTAL OCCUPANCY	1,801	1,759

4. Other expenditure

	2018 Actual \$000	2017 Actual \$000
Telecommunications	284	297
Travel	839	658
Postage, photocopying and stationery	133	158
Publications and knowledge sharing	302	339
Loss on disposal of assets	6	5
Audit fees for financial statement audit	46	45
Other expenses	259	230
TOTAL OTHER EXPENDITURE	1,869	1,732

5. Equity

The Commission's total comprehensive revenue and expenses for the year of \$0.637 million (2017: \$0.811 million) flows to both our general funds and our litigation costs reserve. The respective increase or decrease in both reserves equal the Commission's total comprehensive revenue and expense for the year.

General funds

	2018 Actual \$000	2017 Actual \$000
Balance at 1 July	12,122	11,311
Total comprehensive revenue and expense attributable	921	811
Return of reserves to the Crown	0	0
BALANCE AT 30 JUNE	13,043	12,122

The Commission's general funds are funds held in reserve as a result of past surpluses in certain output classes, plus an initial capital contribution from the Crown. The Commission is allowed to retain surpluses from our competition and consumer output class.

Litigation costs reserve

	2018 Actual \$000	2017 Actual \$000
Balance at 1 July	3,000	3,000
Total comprehensive revenue and expense attributable	(284)	0
BALANCE AT 30 JUNE	2,716	3,000

The Commission undertakes major litigation for alleged breaches of legislation, and also defends regulations and rulings it sets under the Acts it administers. The litigation costs reserve is a contingency fund established to manage the impact of adverse cost awards from these cases. The Commission receives up to \$0.5 million in funding per year to build a contingency fund of up to \$3.0 million to help meet adverse cost awards. The Commission offsets this funding against any adverse cost awards it must pay to other parties during the year.

During the year the Commission provided for the possibility of paying an adverse cost award for a litigation case (2017: the Commission did not have to pay any adverse cost awards). As the case is subject to appeal, the Commission did not draw down any funding to replenish the reserve to its \$3.0 million cap (2017: there was no change in the total of the litigation costs reserve).

6. Cash and cash equivalents

	2018 Actual \$000	2017 Actual \$000
Cash on hand and at bank	2,235	2,415
Cash held in trust	211	287
TOTAL CASH AND CASH EQUIVALENTS	2,446	2,702

The Commission holds unspent Crown funding received, which is subject to restrictions on how it may be spent, and when. We also hold cost awards in trust, a portion of which is payable to the Crown or Commission, while a further portion is held in trust for various parties. As part of the Commission's financial management, portions of these funds may be placed on term deposit or held as cash at bank. See notes 11 and 12 for the relevant amounts.

7. Property, plant and equipment

Cost and valuation:

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
Balance at 1 July 2016	1,799	874	4,386	45	7,104
Additions	518	252	652	29	1,451
Disposals	(214)	(121)	(1,501)	(23)	(1,859)
BALANCE AT 30 JUNE 2017	2,103	1,005	3,537	51	6,696

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
Balance at 1 July 2017	2,103	1,005	3,537	51	6,696
Additions	246	22	8	0	276
Disposals	(99)	(55)	0	0	(154)
BALANCE AT 30 JUNE 2018	2,250	972	3,545	51	6,818

Property, plant and equipment not yet commissioned at 30 June 2018 totalled \$Nil (2017: \$Nil).

Depreciation and impairment losses:

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
Balance at 1 July 2016	1,297	380	1,713	35	3,425
Depreciation expense	372	157	416	5	950
Elimination on disposal	(212)	(121)	(1,497)	(23)	(1,853)
BALANCE AT 30 JUNE 2017	1,457	416	632	17	2,522

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
Balance at 1 July 2017	1,457	416	632	17	2,522
Depreciation expense	388	165	411	10	974
Elimination on disposal	(92)	(56)	0	0	(148)
BALANCE AT 30 JUNE 2018	1,753	525	1,043	27	3,348

Carrying amounts:

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
At 1 July 2016	502	494	2,673	10	3,679
At 30 June and 1 July 2017	646	589	2,905	34	4,174
AT 30 JUNE 2018	497	447	2,502	24	3,470

There is no restriction over the title of the Commission's assets. No property, plant and equipment assets are pledged as security for liabilities.

8. Intangibles

Cost:

	TSLRIC models \$000	Acquired software \$000	Total \$000
Balance at 1 July 2016	1,905	2,393	4,298
Additions	0	1,252	1,252
Disposals	0	(112)	(112)
BALANCE AT 30 JUNE 2017	1,905	3,533	5,438

	TSLRIC models \$000	Acquired software \$000	Total \$000
Balance at 1 July 2017	1,905	3,533	5,438
Additions	0	369	369
Disposals	0	(44)	(44)
BALANCE AT 30 JUNE 2018	1,905	3,858	5,763

Intangible assets not yet commissioned at 30 June 2018 totalled \$293,000 (2017: \$Nil).

Accumulated amortisation and impairment losses:

	TSLRIC models \$000	Acquired software \$000	Total \$000
Balance at 1 July 2016	277	1,926	2,203
Amortisation expense	476	134	610
Disposals	0	(111)	(111)
BALANCE AT 30 JUNE 2017	753	1,949	2,702

	TSLRIC models \$000	Acquired software \$000	Total \$000
Balance at 1 July 2017	753	1,949	2,702
Amortisation expense	476	363	839
Disposals	0	(44)	(44)
BALANCE AT 30 JUNE 2018	1,229	2,268	3,497

Carrying amounts:

	TSLRIC models \$000	Acquired software \$000	Total \$000
At 1 July 2016	1,628	467	2,095
At 30 June and 1 July 2017	1,152	1,584	2,736
AT 30 JUNE 2018	676	1,590	2,266

The Commission holds licenses for use of certain software applications for which it does not hold title. For other software applications, there is no restriction over the title of the Commission's assets. No intangible assets are pledged as security for liabilities.

9. Creditors and other payables

	2018 Actual \$000	2017 Actual \$000
Payables under exchange transactions		
Creditors	448	397
Retentions	0	12
Total payables under exchange transactions	448	409
Payables under non-exchange transactions		
PAYE and other taxes withheld for payment to the Crown	326	302
Goods and services tax payable to the Crown	291	269
Total payables under non-exchange transactions	617	571
TOTAL CREDITORS AND OTHER PAYABLES	1,065	980

10. Provisions

	2018 Actual \$000	2017 Actual \$000
Current portion		
Court cost awards	284	0
Onerous lease	0	99
Total current portion	284	99
Non-current portion		
Reinstatement	0	33
Total non-current portion	0	33
TOTAL PROVISIONS	284	132

Movements for each class of provision are as follows:

	Court cost awards \$000	Restructure \$000	Onerous lease \$000	Lease make-good \$000	Total \$000
Balance at 1 July 2016	0	1	269	33	303
Additional provisions made	0	0	0	0	0
Amounts used	0	(1)	(170)	0	(171)
BALANCE AT 30 JUNE 2017	0	0	99	33	132

	Court cost awards \$000	Restructure \$000	Onerous lease \$000	Lease make-good \$000	Total \$000
Balance at 1 July 2017	0	0	99	33	132
Additional provisions made	284	0	0	0	284
Amounts used	0	0	(99)	(33)	(132)
BALANCE AT 30 JUNE 2018	284	0	0	0	284

Court cost awards provision

In June 2018 the Commission was ordered to pay costs to two parties in one of its litigation cases in the High Court. This provision recognises the High Court costs payable by the Commission to those parties if our appeal of the decision to the Court of Appeal is unsuccessful.

Onerous lease provision

In May 2015 the Commission decided to expand the size of its Auckland office. Due to space pressures on the Commission's Auckland premises, the Commission decided in November 2015 to lease new premises in Auckland and to sublet its existing Auckland office lease. As the Commission was unable to sublet its existing Auckland office and is no longer using the space, we recognised a provision for the remaining lease payments until the lease ended in January 2018.

Lease make-good provision

The Commission's previous Auckland office lease carried obligations to reinstate the premises at the end of a lease. This provision recognised an estimate of costs in relation to those leases.

11. Penalties and cost awards held in trust

	2018 Actual \$000	2017 Actual \$000
Balance at the beginning of the year	295	122
Court cost awards compensation received (or recognised as receivable), and interest earned	259	260
Penalties received and paid to the Crown (net)	0	0
Infringement fees received (or receivable) and paid to the Crown (net)	(13)	7
Court cost awards, compensation, and interest paid out	(327)	(94)
BALANCE AT THE END OF THE YEAR	214	295

Penalties and cost awards held in trust are civil penalties and cost awards received by the Commission but payable to another party. This is generally the Crown, but can also be compensation received for third parties, or civil penalties and cost awards held in trust while a litigation case continues. The Commission may also be entitled to a portion of court cost awards received. The Commission is not entitled to any of the penalties received, but acts as an agent for the Crown in collecting and forwarding the penalties received.

Infringement fees are issued to various parties for breaches of legislation we enforce. The Crown receives the proceeds of the infringements issued. Any Fair Trading Act infringements unpaid after a certain length of time are transferred to the Ministry of Justice for collection. Infringements issued under the Telecommunications Act 2001 are collected by the Commission.

The Commission receives cost awards and compensation for third parties through our investigations and litigation activities. Cost awards are split between the Crown and the Commission, in proportion to the funding each contributes to the costs of pursuing the investigation or litigation. This split occurs once the investigation or litigation is complete and we know the total cost of the case. Interest is earned and paid on all cost awards and settlements received.

Components of penalties and cost awards held in trust:

	2018 Actual \$000	2017 Actual \$000
Infringement fees due to the Crown (including receivable)	7	20
Court cost awards and compensation due to Crown or other parties	207	275
BALANCE AT THE END OF THE YEAR	214	295

In general, penalties received by the Commission must be paid to the Crown within 7 days of receipt, unless the penalties received are subject to an arrangement while litigation continues.

Where there are cases involving a number of parties, we can receive settlements from some parties while others continue to defend. As a result, we are unable to reliably estimate what amount of total cost awards or settlements are due to the Crown, as this estimate can change substantially as the case progresses. In these situations, the Commission records a provision for the cost awards due to the Commission or the Crown which equals any cost awards received for that case. Once a case is finished and we know the total cost of the case and funds to distribute, we recognise the amount receivable by us and the remainder becomes a payable due to the Crown, instead of a provision.

If we receive compensation settlements to pay to a number of third parties (eg, customers of a business we investigate), we recognise the whole amount as a payable to third parties when we receive the settlement.

Infringement fees are paid to the Crown every 4 months, after receipt.

12. Crown funding repayable

	2018 Actual \$000	2017 Actual \$000
Airports	205	325
Dairy	220	338
Electricity	0	663
Gas	324	419
Input methodologies	0	41
Telecommunications	599	669
Litigation fund	321	1,325
TOTAL CROWN FUNDING REPAYABLE	1,669	3,780

13. Employee entitlements

	2018 Actual \$000	2017 Actual \$000
Accrued salaries and wages	201	178
Annual leave	1,388	1,152
Accrued performance and at-risk incentives	292	312
TOTAL EMPLOYEE ENTITLEMENTS	1,881	1,642

14. Reconciliation of operating surplus for the year to net cash inflows from operating activities

	2018 Actual \$000	2017 Actual \$000
Operating surplus for the year	637	811
Non-cash items:		
Depreciation and amortisation	1,813	1,560
Lease incentives recognised	(238)	(244)
Total non-cash items	1,575	1,316
Items classified as investing or financing activities:		
Gain on sale of property, plant and equipment	(1)	0
Loss on sale of property, plant and equipment	6	5
Total items classified as investing or financing activities	5	5
Change in statement of financial position items:		
Fees and recoveries receivable	148	(197)
Prepayments	119	(188)
Creditors	85	(62)
Accrued expenses	(367)	14
Crown funding repayable	(2,111)	(1,985)
Penalties and cost awards held in trust	(81)	173
Provisions	152	(171)
Employee entitlements	239	(56)
Total change in statement of financial position items	(1,816)	(2,472)
NET CASH INFLOWS FROM OPERATING ACTIVITIES	401	(340)

15. Critical accounting judgements and estimates

In authorising these financial statements for issue, the Commission has ensured that:

- we have disclosed the specific accounting policies needed to properly understand these financial statements
- all of our adopted accounting policies are appropriate for our activities
- our accounting policies were applied consistently throughout the year.

When applying the accounting policies, the Commission is required to make certain judgements and estimates. The Commission has considered the following critical judgements and estimates to be appropriate.

Contingencies

The Commission is party to several significant litigation cases and appeals as a result of its enforcement and quasi-judicial role. In undertaking significant litigation the Commission is faced with the risk of losing, and as a result having to pay a multi-million dollar cost award.

The Commission has assessed the likelihood of the appeals being successful and of costs being awarded against, or in favour of, the Commission.

Cost awards that are likely to result in a future receipt or payment of cost awards have been recognised as at 30 June 2018 in the statement of comprehensive revenue and expense. The Commission has also disclosed its contingent liabilities and assets as a result of cost awards that may possibly result in a future receipt or payment of costs as at 30 June 2018 (see note 16). We continue to monitor all our current litigation cases, and assess whether they give rise to contingent liabilities or assets.

16. Contingent liabilities and assets

The Commission regularly has a number of matters before the court which may lead to future assets or future liabilities.

Where no judgment has been issued in a proceeding, our general presumption is that the outcome is rarely sufficiently predictable to register the case as giving rise to either a contingent asset or liability.

Litigation cases in which the Commission is involved are either civil cases (both as prosecutor and as a defendant when other parties appeal our decisions) or criminal prosecutions. Criminal prosecutions under the Fair Trading Act, CCCF Act and s 103 of the Commerce Act are not disclosed because if the Commission is successful any cost awards are payable to the Crown. Similarly, if the Commission is unsuccessful then very rarely will costs be ordered against the Commission. If costs are ordered against the Commission the costs are paid by the Crown.

We do not treat penalties as contingent assets of the Commission, as any penalties if received will be payable to the Crown.

Contingent liabilities as at 30 June 2018:

There are no contingent liabilities.

Contingent liabilities as at 30 June 2017:

There were no contingent liabilities.

Contingent assets as at 30 June 2018:

NZME/Fairfax (now Stuff) Merger

In May 2016 Fairfax and NZME sought authorisation to merge their New Zealand operations. The Commission declined the merger in May 2017 and the High Court in Wellington upheld the Commission's decision in December 2017.

On 25 September 2018 the Court of Appeal dismissed NZME and Fairfax's (now Stuff) long-running appeal against the Commerce Commission's decision to decline their media merger.

The Court's ruling upheld the earlier High Court judgment that supported the Commission's May 2017 decision that the merger would be likely to substantially lessen competition in advertising and reader markets in New Zealand, and that it should not be authorised as it did not create benefits that outweighed this lessening of competition.

The Court of Appeal has awarded costs to the Commission, but the quantum is still to be agreed. High Court costs of approximately \$195,000 have been agreed.

Contingent assets as at 30 June 2017:

There were no contingent assets.

17. Financial instruments

The carrying amounts of each class of financial assets and liabilities are:

Monetary assets:

	2018 Actual \$000	2017 Actual \$000
Loans and receivables		
Cash and cash equivalents	2,446	2,702
Fees and recoveries receivable	198	346
Short-term investments	14,000	14,000
TOTAL MONETARY ASSETS	16,644	17,048

Monetary liabilities:

	2018 Actual \$000	2017 Actual \$000
Financial liabilities measured at amortised cost		
Creditors	1,065	980
Penalties and cost awards held in trust	214	295
Crown funding repayable	1,669	3,870
TOTAL MONETARY LIABILITIES	2,948	5,145

Financial instruments include cash and cash equivalents, receivables, investments and payables resulting from day-to-day operations. There are risks inherent with all financial instruments and risk management policies are used to mitigate the exposure to market risk comprising liquidity risk, credit risk, interest rate risk and currency risk.

Liquidity risk

Liquidity risk is the risk of not having enough liquid funds (eg, cash) available, leading to difficulty in making debt payments on their due date. As Crown funding is received quarterly in advance, the Commission does not have a material risk in meeting its day-to-day obligations as they fall due.

Credit risk

Credit losses may occur if a third party defaults on obligations owed to the Commission, resulting in the Commission suffering a financial loss. Financial instruments which potentially subject the Commission to risk consist of cash and bank balances, receivables and investments (bank deposits). The maximum credit risk exposure is represented by the carrying amount of each monetary asset in the statement of financial position.

The Commission does not have a material credit risk for receivables due from third parties. All other receivables are due from the Crown. Cash not immediately needed to settle obligations as they fall due is invested with New Zealand registered banks with appropriate credit ratings. Limits are in place restricting deposit terms, individual deposit amounts, currency and the level of deposits with any one registered bank. The Commission is not exposed to any concentrations of credit risk, other than an exposure to the New Zealand banking sector. No collateral is required to be held as security against amounts owed to the Commission.

Interest rate risk

As interest rates change, the fair value of interest-bearing bank deposits may change and future cash inflows will fluctuate. In accordance with the Commission's cash management policy, there are limits on the terms of all interest-bearing deposits, ensuring that deposits mature within 12 months (short-term). There are no other market risks.

The financial instruments carrying amount closely approximates their fair values as at 30 June 2018 and 30 June 2017. The average interest rate on interest-bearing term deposits over the year was 3.52% (2017: 3.45%). A 1% change in interest rates, with all other factors unchanged, would change interest earnings by \$126,000 (2017: \$153,000).

Currency risk

Currency risk results from fluctuations in the value of future cash outflows because of changes in foreign exchange rates. The Commission engages overseas experts and purchases specialist goods and services from foreign suppliers, requiring payment in a range of foreign currencies. The transactions are not hedged and are translated into New Zealand dollars at the exchange rate (spot) obtained when the invoices are paid. A 10% change in exchange rates, with all other factors unchanged, would change expenditure by \$69,000 (2017: \$81,000).

18. Operating (non-cancellable) leases

Operating (non-cancellable) lease payments due:

	2018 Actual \$000	2017 Actual \$000
Within 1 year	1,708	1,799
Within 1 to 2 years	1,446	1,707
Within 2 to 5 years	4,177	4,231
After 5 years	5,570	6,962
TOTAL OPERATING (NON-CANCELLABLE) LEASES DUE	12,901	14,699

The future operating (non-cancellable) lease payments consists of the contractual amounts due for leased office equipment and premises. The Commission leases offices in Auckland and Wellington, with the Wellington lease expiring in 2027, our previous Auckland office expiring in 2018, and the new Auckland office sub-lease expiring in 2019. The Commission's Wellington office is currently subject to rent review, which at this time is not finalised.

Under the Wellington lease, there are further rights of renewal of up to 6 years. The Commission will not make any decisions on renewal in Wellington until closer to the initial term expiry.

19. Capital expenditure commitments

	2018 Actual \$000	2017 Actual \$000
Computer and office equipment	697	0
Acquired software	17	140
TOTAL CAPITAL EXPENDITURE COMMITMENTS	714	140

20. Related party transactions

The Commission is an Independent Crown Entity, primarily monitored by the Ministry of Business, Innovation, and Employment (MBIE) on behalf of the Minister of Commerce and Consumer Affairs and the Minister for Telecommunications.

We have not disclosed related party transactions with other government entities (eg, Crown entities or government departments) that are related parties, where the transactions are within a normal supplier relationship on normal commercial terms, or normal operating arrangements between government agencies made on the same terms.

There were no other related party transactions during the year (2017: \$Nil).

Key management personnel

	2018 Actual \$000	2017 Actual \$000
Members' remuneration	2,413	2,401
Senior leadership team remuneration	1,198	1,216
TOTAL KEY MANAGEMENT PERSONNEL REMUNERATION	3,611	3,617

	2018 Actual	2017 Actual
Members' full-time equivalents	5.3	5.75
Senior Leadership Team full-time equivalents	4	4
TOTAL KEY MANAGEMENT PERSONNEL FULL-TIME EQUIVALENTS	9.3	9.75

Key management personnel comprise all members of the Board, the Chief Executive Officer, and the members of the Senior Leadership Team.

21. Members' remuneration

	2018 Actual \$000	2017 Actual \$000
M Berry (Chairman)	619	551
S Begg (Deputy Chair)	375	364
S Gale (Telecommunications Commissioner)	423	433
E Welson (Commissioner)	339	333
A Rawlings (Commissioner)	243	248
G Crombie (Associate Commissioner until December 2017)	50	112
J Walker (Commissioner)	364	360
TOTAL MEMBERS' REMUNERATION	2,413	2,401

The Chairman, Dr Mark Berry, and the Telecommunications Commissioner, Dr Stephen Gale, are in full-time positions and receive leave entitlements. The dollar value of the movement in any accrued leave entitlement is included in the remuneration total above. All other Commissioners are paid for service on a daily rate set by the Remuneration Authority as follows:

Members' daily rates:

	2018 \$	2017 \$
Deputy Chair	1,904	1,850
Commissioners and Associates	1,610	1,565
Cease and Desist Commissioners	1,610	1,565

Members' additional remuneration

Most Members are entitled to additional pay above the daily rate if the number of hours worked on any day exceeds eight hours. The daily rate includes any annual and sick leave entitlement, and no additional payments are made on account of annual leave or sick leave. The Chairman and Telecommunications Commissioner are salaried appointments, and receive annual leave and sick leave entitlements in addition to their salary. The Chairman and Telecommunications Commissioner are not entitled to additional pay for additional hours worked.

Other payments in respect of Members

The Commission paid \$6,288 to an Audit, Finance and Risk Management Committee member appointed by the Board who is not a Board member during the year. This compared to \$8,500 in 2017.

The Commission has provided a Deed of Indemnity to Members for certain activities undertaken in the performance of the Commission's functions.

The Commission has taken out Directors' and Officers' Liability and Professional Indemnity insurance cover during the financial year in respect of the liability or costs of Members and employees.

No Members received compensation or other benefits in relation to cessation (2017: \$Nil).

22. Capital management

The Commission's capital is its equity, which is made up of general funds and other reserves as disclosed in note 5. Equity is represented by net assets.

The Commission is subject to the financial management and accountability provisions of the Crown Entities Act, which impose restrictions on borrowings, acquisition of securities, issuing guarantees and indemnities, and the use of derivatives.

The Commission manages its equity as a by-product of prudently managing revenues, expenses, assets, liabilities, investments and general financial dealings to ensure the Commission effectively achieves its objectives and purpose, while remaining a going concern.

23. Significant events after balance date

As an enforcement agency and regulator, the Commission is regularly involved in litigation and often has a large number of matters before the court. A number of financially insignificant matters have been progressed or finalised by 31 October 2018.

Steel & Tube Holdings Limited

Steel & Tube Holdings Limited (Steel & Tube) was fined \$1.885 million on 24 October 2018 for breaching the Fair Trading Act by making false and misleading representations about its steel mesh products which are used in construction to provide strength and stability in the event of an earthquake.

These funds are paid to the Commission and transferred in full to the Crown (via the Ministry of Business, Innovation and Employment) within 7 days of receipt.

24. Explanation of significant variances against budget

Significant variations from the budgeted figures in the *Statement of Performance Expectations 2017/18* are set out in the table below. Explanations for each variance are found underneath.

	Note	Actual \$000	Budget \$000	Actual \$000
Statement of comprehensive revenue and expense				
Revenue – Crown	1	41,297	42,685	(1,388)
Legal and other professional fees	2	9,302	10,494	(1,192)
Statement of financial position				
Total equity	3	15,759	15,064	695
Cash and cash equivalents	4	2,446	976	1,470
Short-term investments	5	14,000	12,000	2,000
Intangibles	6	2,266	3,468	(1,202)
Crown funding repayable	7	1,669	63	1,606
Statement of cash flows				
Crown funding received	8	44,106	42,748	1,358
Supplier payments	9	14,494	15,854	(1,360)
Repayment of Crown funding	10	4,930	3,880	1,050
Investment receipts/(deposits)	11	0	2,000	(2,000)
Intangible asset purchases	12	369	1,412	(1,043)

Explanatory notes

- Revenue – Crown was \$1.4 million less than budget due to under-spends across our various output classes leading to less revenue recognised, offset by increased revenue received for our General Market output class.
- Legal and other professional fees were \$1.2 million under budget primarily due to less expenditure on litigation related costs arising from settlements, delays in court hearings, and favourable judgments in several major litigation cases; and less expenditure than budgeted on external consultants within our other output classes.
- Total equity was \$0.7 million greater than budget due to a \$0.1 million higher than budgeted opening equity balance, a \$0.9 million greater than budgeted result in our competition and consumer output class, offset by a \$0.3 million less than budgeted result in our major litigation output class.
- Cash and cash equivalents were \$1.5 million greater than budget due to under-spends across our output classes resulting in greater cash on-hand.
- Short-term investments were \$2.0 million greater than budget as we managed our cash funds differently to the high-level assumptions made when setting our 2018 budget, and had greater cash funds available.
- Intangibles were \$1.2 million less than budget due to revision of the schedule for development and deployment of new software systems.
- Crown funding repayable was \$1.6 million greater than budgeted as funding received in advance from a number of appropriations to fund our classes of outputs was greater than our expenditure against those output classes.
- Crown funding received was \$1.4 greater than budget primarily due to additional funding received for the Commission's General Market (\$0.8 million) and Telecommunications functions (\$0.8 million) during the year
- Payments to suppliers were \$1.4 million less than budgeted due to lower than budgeted expenditure as reflected in the statement of comprehensive revenue and expense.
- Repayment of Crown funding was \$1.1 million greater than budget as prior year expenditure was less than forecast when establishing the 2018 budget, and we repaid some Crown funding received in 2018 before the end of the financial year.
- Investment receipts were \$2 million less than budget as we retained greater funds than budgeted on investment, due to greater than expected cash balances.
- Intangible asset purchases were \$1.0 million less than budget due to revision of the schedule for development and deployment of new software systems.

Financial statements glossary

The following table provides definitions for some terms used in our financial statements. Please note that these definitions are only provided to help readers, and are not part of the financial statements, or necessarily reflect the way that we interpret and apply accounting standards.

Accounts payable	Debts owed to somebody (eg, a company) for goods or services provided to us which 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.
Amortisation	Amortisation is basically the same as depreciation (see below), except it is applied to intangible assets (eg, software).
Asset	An asset is something which we own, expect to receive in the future, or control.
Balance date	The date at which a set of accounts are 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 which can be converted into cash or used to pay a liability within 12 months. A current liability is a liability which 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.
Financial instruments	Financial instruments are assets or liabilities which 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 shorthand for the series of standards, interpretations, and concepts which 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 is being wound up.
Intangible assets	Intangible assets are assets which 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 which are cash, or will become cash, in a short timeframe (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 which we cannot ordinarily turn into cash within 12 months. A non-current liability is a liability which we would not ordinarily have to repay within 12 months.
Output class	An output class is a grouping of similar outputs or activities with similar objectives. The Commission's output classes are primarily funded by appropriations from the Crown via MBIE.
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	An entity which aims to provide goods or services to the general public to meet a specific need, rather than to make a profit for its owners.
Related party	Another person or entity which 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 which 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 which 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).
Statement of financial position	A statement which shows what assets we own or control, what liabilities we have, and the remainder (equity) at the balance date.

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