COMMERCE COMMISSION NEW ZEALAND
Te Komihana Tauhokohoko

G.34

PŪRONGO Ā-TAU
ANNUAL REPORT
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Presented to the House of Representatives pursuant to section 150(3) of the Crown Entities Act 2004.

Me mahi tahi tātou mō te oranga o te katoa

We work as one for the benefit of all

Ā te Heamana me te Kaihautū wāhinga kōrero
Our Chair and Chief Executive's foreword

Puta noa i ngā wāhanga katoa o te Kōmihana nei ko te ū tonu tērā o te arotahi ki tā mātou Tirohanga Roa me ngā whāinga tōmua mō te tau e mutu ana i te 30 Hune 2023.

Ko tēnei tau he tau nui me ōna tohu nui whakahirahira anō, arā, ngā whakatutukitanga i ā mātou mahi taketake me te kawe ake i ngā haepapa hou. Kua āwhina mātou i ngā tāngata o Aotearoa kia whai painga i te tau 2023 me te hāpai i ngā kaupapa whāinga roa kia koke tonu.

Ko ētahi o ā mātou haepapa hou he take nui tonu ki te maha o ngā tāngata o Aotearoa e pēhia ana i te pikinga tonutanga o ngā utu oranga. Arā, ko te rāngai hinu tērā, ko te rāngai hokomaha tērā me te pūnaha utu whakamutunga, i āianei e tino hāngai ana tā mātou mahi ki te oranga o ngā tāngata o Aotearoa. Waihoki, e arotahi tonu ana mātou ki ā mātou kawenga ā-ture i raro i te Ture Arumoni, te Ture Tauhokohoko Tika me te Ture Kirimana Moni Taurewa, Ture Pūtea Kaiwhakapeto hoki (CCCF Act).

Nā aua kawenga hou me te anga ture e whanake nei kua pike ake ā te Kōmihana mahi ki taumata kē, ka mutu he mea pai, he huarahi pai hoki e tūhonohonu ai ngā kaiwhakapeto o Aotearoa ki tā mātou mahi me ngā take i pērā ai.

Ko tō mātou hiahia kia mōhio ngā tāngata he mea whaikiko ki ā mātou ki a rātou anō – i ngā pāpātanga wā-poto nei me ngā putanga wā roa.

Kua nui haere te Kōmihana i runga i te whakawhānuitanga o ngā haepapa. Inā hoki kua piki ake tā mātou pūtea mai i te $41 miriona i te FY2018 ki tōna $85 miriona mō tēnei tau. Tāpiri atu ki te pikinga pūtea mō te tau pūtea hou ko ngā mahi hou hei hāpai i te mahi a te Kaikōmihana Hokomaha me tētahi pūtea iti hei whakarite i tā mātou kawenga o te Tiakitanga Kaiwhakapeto me te Ture Ohaoha i raro i te Ture Ohaoha Tika Ratonga Wai, Ture Tiakitanga Kaiwhakapeto hoki.

Across the Commission, we have maintained an unwavering focus on our vision and priorities in the year ended 30 June 2023.

This has been a year of significant milestones, with major achievements in our traditional areas of activity and in undertaking new responsibilities. We have helped make New Zealanders better off in 2023 as well as progressing longer-term initiatives.

Some of our newer responsibilities are of immediate priority to the many Kiwis who are currently facing inflationary and cost-of-living pressures. These include the fuel and grocery sectors and the retail payment system, where our mahi is more directly relevant to New Zealanders' lives and livelihoods than ever before. At the same time, we remain focused on our regulatory roles under the Commerce Act, Fair Trading Act and Credit Contracts and Consumer Finance Act (CCCF Act).

Our newer roles and evolving legislative framework have given the Commission's work a new level of everyday prominence and relevance, which we have welcomed as an opportunity to connect Kiwi consumers with what we are doing and why.

We want people to be aware of and see value in our work – both the short-term impacts and the outcomes over longer timeframes.

The Commission has grown in size as we have added the capability and capacity necessary for our expanding responsibilities. This is reflected in funding growing from about $41 million in FY2018 to nearly $85 million this year. Further budgeted funding increases for the new financial year include resourcing for the new function to support the work of the Grocery Commissioner and a small amount for preparing to take up our consumer protection and economic regulation role under the Water Services Economic Efficiency and Consumer Protection Act.

The Commission Board and our Senior Leadership Team have placed a stronger emphasis on the

Kua whakatau i te Poari Kōmihana me tā mātou Rōpū Kaiarataki kia kaha ake te arotahi ki ngā putanga e whāia ana kia ine hoki i te pāpātanga o ā mātou mahi, kei tika ake te whakahaere.

E tohe ana hoki mātou kia auau tonu, kia mārama, kia tika te kōrero ki ngā kaiwhakapeto me ngā kaiwhaipānga. He mea āta whakatakoto tēnei whakaaro māhorahora hei whakamārama i tā te Kaikōmihana kawenga i roto i te ōhanga o Aotearoa, hei whakatairanga hoki i ngā kawenga whakapakari e rua o te whakamarumaru kaiwhakapeto me te whakataetae, te whakaū hoki.

I raro i te Ture Arumoni, ka whakahautia mātou ki te whakatairanga, ki te whakamarumarau whakataetae hoki me te whaikoha ki te kaupapa here ahumahi mā ngā whakamātauranga ā-mākete. I te taha o ngā taimahatanga o te aromatawai i ngā tono hanumitanga, tono whakamana hoki, nā mātou i hāmene te kēhi kawenata patu-whakataetae tuatahi i raro i tekiona 28, i whakatutuki i ā mātou hāmene kāhui tono utanga me te tuku kupu tūpato ki ngā rōpū iti i whai wāhi atu, me te tuku i te tuatoru o ā mātou whakamātauranga ā-mākete ki ngā putunga hanga whare noho i te marama o Tihema i tērā tau.

I raro i te Ture Tauhokohoko Tika, ko ngā hāmene hirahira ko tērā ki a Vodafone (now One NZ) me NZME (trading as GrabOne NZ). I whuia ēnei pakihi rongonui e rua ki Aotearoa i runga i ngā hara i raro i te Act i roto i te tau mutu ana i 30 Hune 2023. Ko te hara a One NZ i kitea ko tērā o te whakapōhēhē i ngā kaiwhakapeto i runga i ngā ratonga mākete aunui, ā, ko tā NZME hara i kitea ko tērā o te hoko hua mōrearea, hua whakakino hoki. I tuku pīra anō te Kōmihana mō te taumata o te whiunga pūtea i roto i ēnei kēhi e rua, me te tohe anō i rite ēnei hara e rua ki te taumata ture e mōhiotia ana he "manifestly inadequate". I tēnei wā ko te tā One NZ pīra anahe te mea kua tau. Mō tēnei take i whakapikia te whaina e te kōti ki $3.67 miriona, me tā te Kaiwhakawā i kī ai kia tika te whiunga kia rongohia ai tōna 'wero' ka tahi, hei whakaita i ētahi atu, ka rua.

outcomes we are seeking to achieve and on measuring our impacts while also ensuring we operate as efficiently as possible.

We are also striving for more frequent, clear and direct communication with consumers and stakeholders. This has been a deliberately outgoing mindset to explain the Commission's role in the economy of Aotearoa New Zealand and promote the mutually reinforcing roles of consumer protection and competition and enforcement.

Under the Commerce Act, we are charged with promoting and protecting competition and contributing to industry policy through market studies. Alongside a heavy workload screening merger and authorisation applications, we also successfully prosecuted the first anti-competitive covenants case under section28, finalised our successful freight forwarding cartel prosecutions with warnings to minor participants, and delivered our third market study into residential building supplies in December last year.

Under the Fair Trading Act, notable prosecutions included Vodafone (now One NZ) and NZME (trading as GrabOne NZ). Both of these well-known Aotearoa New Zealand businesses were convicted of offences under the Act during the year to 30 June 2023. One NZ was found to have misled consumers in marketing broadband services, and NZME was found to have sold a potentially dangerous and harmful product. The Commission appealed the level of financial penalty for both of these cases, arguing both met the legal standard of being "manifestly inadequate". At the time of writing, only the One NZ appeal has been resolved. In this matter, the Court increased the fine to $3.67 million, with the Judge in this appeal noting that penalties need to "sting" in order to be an effective deterrent.

We also settled with the South Korean Kookmin Bank, with more than $11 million refunded to borrowers because it didn't accurately disclose information to customers about their loans, breaching the CCCF Act. At the same time, we have continued our borrower

I whakaotia hoki e mātou tētahi whakatau me te pēke nō Korea ki te Tonga, ko Kookmin Bank, kia whakahokia te $11 miriona ki te hunga whai pūtea taurewa nā te mea kāore i tika tā te pēke whakapuaki mōhiohio ki ngā apataki e pā ana ki ā rātou pūtea taureware, nā reira i whati ai i te CCCF Act. Waihoki, kei te haere tonu ā mātou whakaakoranga hunga whai pūtea taurewa – e mātau ai te kaiwhakapeto ki āna tika i raro i ngā ture kaiwhakapeto.

Kei te arotahi hoki mātou ki te whakakore i ngā mahi a te koeko hokohoko, inā hoki he mahi hē ā-ture i Aotearoa. Ka nui te whakakino a ēnei mahi i roto i ngā hapori, heoi i tēnei wā tonu e toru ā mātou kēhi kei mua i aroaro o ngā Kōti e pā ana ki te whakapae he mahi koeko hokohoko ērā e whakatairangatia ana.

Ko tētahi mahi anō a mātou ko te whakarite i ētahi o ā Aotearoa tino ratonga, i ngā wāhi kāore e maha ngā kōwhiringa mā te kaiwhakapeto, pērā i ngā kōtuinga hiko, kāpuni hoki me ngā tauranga wakarererangi.

Ka āta tirotiro mātou i te kounga me te utu he pēhea hoki te haumi a ēnei kamupene hei painga wā roa mō ngā kaiwhakapeto – ko tērā tētahi āhuatanga e kaha tirohia ana i muri mai i ngā tūāhua huarere kino rawa, pērā i a Huripari Gabrielle, me te hanganga matua.

I te rāngai torotoro waea, nā tētahi tino mahi anō i arotahi tonu ai mātou kia pai ake te kounga o te ratonga hokohoko. I hoahoa anō, i whakaniko hoki i tā mātou pūrongo ā-tau aroturuki rāngai, me te whakarewa kaupapa hou e tirotiro ai i te honotonga tuawhenua.

E rapu whakamārama ana te Kōmihana mai i ā Aotearoa kamupene hinu matua e pā ana ki ngā rerekētanga i kitea i roto ngā tikanga whakarite utu hinu i te tau tuatahi o te aroturuki i raro i ngā ritenga o te Ture Ahumahi Hinu hou.

Waihoki e para panoni ana mātou i raro i te Ture Pūnaha Utunga Moni. Ko te pūnaha utunga moni te ratonga kaute e mahia whānuitia i Aotearoa, ā, nā tā mātou arotahi ki ngā tikanga utu āpiti kua tukua he $105 million te wāriu o te hekenga utu ki te hunga.

education work to educate consumers about their rights under consumer laws.

We're also focused on preventing pyramid scheme activity, which is illegal in New Zealand. These schemes can cause a lot of harm in communities, and at the time of writing we have three cases before the Courts related to alleged promotion of pyramid schemes.

Another part of our role is to regulate some of New Zealand's key essential services, in areas where consumers don't get as much choice such as electricity networks, gas and airports.

We keep a close eye on quality and cost including how these companies are investing for the long term benefit for consumers, which has come under increased scrutiny in the wake of the impacts of severe weather events, including Cyclone Gabrielle, on key infrastructure.

In the telecommunications space, an active work programme continued our focus on improving retail service quality. We also re-designed and significantly enhanced our annual sector monitoring report and launched a new project to examine rural connectivity.

The Commission is seeking an explanation from New Zealand's major fuel companies about anomalies that have been identified in retail fuel pricing over the first year of monitoring under the new Fuel Industry Act regulatory regime.

In parallel, we have been driving change under the Retail Payment System Act. The retail payment system is the most commonly used financial service in Aotearoa New Zealand, and our focus on surcharging practices has already delivered $105 million in lower costs to merchants. These are annual savings that should flow through to Kiwi consumers.

With regard to our new regulatory role in the $22 billion grocery sector, this is an area of high expectation for the Commission as it is of interest to every New Zealander putting food in their trolley and what they are paying at the supermarket till.

Ko te tikanga he mea whai hua tēnei ki ngā penapena pūtea ā-tau a ngā kaiwhakapeto o Aotearoa.

Mō te taha ki tā mātou kawenga hou ā-ture hou i roto i te rāngai hokomaha $22 piriona, ka nui te manako mai mō te Kōmihana tā te mea he kaupapa nui tēnei ki ia tangata, ki ia whānau hoki o Aotearoa e hoko kai ana, me te taha ki te utu mō aua kai i ngā hokomaha.

Ko tō mātou whāinga ia he tuku hua hei painga mō ngā tāngata o Aotearoa mā te whakarite tikanga e āhei ai ngā kaihoko o nāianei me ngā pakihi hou ki te whakataetae ki ngā hokomaha nunui i runga i te utu, te wāhi, te kounga me te whānuitanga o ngā hua. Me he kōtuku rerenga tahi te rite o tēnei huarahi ki a mātou e oti ai he panoni huapai mauroa mō ngā kiritaki o Aotearoa. Nā tā mātou whakaputa kōrero i muri i tētahi amuamu, ko te whakahokinga mai tērā o tētahi kai matua ki Aotearoa, arā te Weet-Bix, ki tētahi kaihoko hiranga – ko te mutunga atu he tino wikitoria mō ngā kaiwhakapeto ki Aotearoa me te āhua o te whakataetae i roto i te rāngai hokomaha o Aotearoa.

Ka pērā tonu te karanga a te Kaikōmihana Hokomaha ina kite ia i ētahi āhuatanga e ārai whakataetae, i runga i te hiahia kia rite te whakataetae me te kore moumou i te ahumahi hokomaha hei painga mauroa mō ngā kaiwhakapeto.

Ko tētahi atu wāhi hei arotahi mā mātou ko te tika o ā ngā Hokomaha tikanga whakarite utu, whakatairanga utu hoki. Kua puta ke ō mātou āwangawanga mō te maha o ngā pātaitai – me ngā amuamu mai – mō ngā tikanga whakatairanga me te hē o ngā utu, nā konā e arotahi ana mātou kia whakaanga ki ngā hokomaha e mārama pū ai rātou ki te hiahia 'māhaki-kore' o ngā tāngata o Aotearoa mō tēnei wāhi, e hāngai ana ki ngā herenga mō ngā kaihoko i raro i te Ture Tauhokohoko Tika.

Ka āwhina ngā pātaitai me ngā aumuamu mai i te Kōmihana kia mārama pai ai mātou ki hea arotahi ai ngā mahi me ngā rauemi, ki te tautuhi hoki i ngā āhuatanga me āta tirotiro e mātou. I ngā marama 12 ka hori ake, kua whiwhi te Kōmihana neke atu i te

Our aim is to deliver benefits for New Zealanders by creating the conditions for existing retailers and new businesses to compete with the big supermarkets on price, location, and quality and range of products. We see this as a once-in-a-generation opportunity to make sustainable positive change for Kiwi consumers. After we raised our voice publicly following a complaint, we have seen the reinstatement of supply of a New Zealand staple, Weet-Bix, to a significant retailer – a real win for Kiwi consumers and competition in the grocery sector in New Zealand.

The Grocery Commissioner will continue to call out things where we see it hurting competition, with the aim of promoting competition and efficiency in the grocery industry for the long-term benefit of consumers.

Supermarkets' pricing integrity and promotion issue is another area of focus. We have expressed concern about the number of enquiries – and complaints – we receive about promotional practices and inaccurate pricing, and so we're focused on engaging with supermarkets operators to ensure they understand the 'zero-tolerance' expectation of New Zealanders in these areas in line with the requirements of retailers under the Fair Trading Act.

Enquiries and complaints to the Commission help us to better understand where to focus our activity and resources, and in identifying what we should investigate. In the past 12 months, the Commission has received more than 14,000 enquiries across a range of matters. Some matters that attract a high level of publicity can generate a large number of enquiries. However this does not necessarily mean the law has been broken, and data on its own cannot paint a complete picture of compliance with the law.

The reality is that we are not able to investigate all enquiries and complaints. We apply discretion over what we investigate, which includes the potential harm caused, seriousness of the conduct and our priorities.

14,000 ngā pātaitai mai mō ngā take maha. Mō ētahi o ngā take ka rangona whānuitia he pērā tonu te nui o ngā pātaitai mai, heoi ehara i te mea kua takahia te ture, ā, ehara mā te raraunga anahe e whakaatu mai i te tautukunga o te ture.

Kāore e taea e mātou ngā pātaitai me ngā amuamu katoa te tirotiro. Ka pukumahara tonu mātou i runga ngā tirotirohanga mēnā kua whara tētahi, kua puta he raru nui i ngā mahi me ā mātou whāinga tōmua hoki.

Ka whai tikanga rawa tā te Kōmihana mahi ina nui ake ngā tāngata tērā e noho mārama ana, e kite tonu ana i a rātou anō i roto i ā mātou mahi, ā, ka mārama hoki he mea uaua tonu ēnei kōwhiringa. Heoi, he oranga ngākau tonu te kite i ngā otinga o te 2023 Kantar Public Sector Reputation Index e whakaatu ana e mōhio pai ana te marea ki te Kōmihana me tā mātou mahi hei whawhai i te whawhai pai mō ngā tāngata o Aotearoa.

Ko tētahi mea pai anō ko te whakahoki kōrero a ā mātou kaiwhaipānga, me te tino hiahia mō te Kōmihana – kia noho motuhake, kia noho tōkeke hoki; kia mau mōhio, kia mārama pū ki tēnā, ki tēnā rāngai; kia taurite tonu tā mātou arotahi i waenga i te ūruhitanga me te whakamātauranga; heoi kia matawhānui tonu tā mātou titiro.

He pai tonu kia noho haepapa mātou mō ēnei āhuatanga tae atu ki ngā huarahi hei whai mā mātou i ngā mahi hirahira hou kei mua i te aroaro, pērā i te whakamātauranga ā-mākete i ngā ratonga pūtea pēke whaiaro, te whakatinanatanga o ngā tikanga hokomaha – i raro i te Kaikōmihana Hokomaha hou, a Pierre van Heerden, nā mātou ia i rāhiri ki te Kōmihana i te marama o Hūrae 2023.

Tukua mai i a Anna Rawlings te mana o te heamana ki a John Small i Tīhema 2022, nāna tonu i arataki te Kōmihana i te wā kino rawa o te urutā, te wā āno hoki i whakawhānuitia atu ā mātou haepapa. Arā anō ētahi tino panoni i te tepū o te Poari, ko te kopounga o Anne Callinan hei Heamana Tuarua i te Kōmihana Tauhokohoko. Ko Anne tētahi hoa rōia matua me

The Commission will be most effective when more people are aware of and see themselves in our work and understand these hard choices we have to make at times. It has been heartening to see in the 2023 Kantar Public Sector Reputation Index results that there is better recognition of the Commission, and we are seen to be fighting the good fight for Kiwis.

We are also encouraged by what we see in the feedback from our stakeholders and expectations of the Commission – independence and impartiality; knowledge and understanding of each sector; balance in our focus between enforcement and education; along with wanting us to retain a big picture focus.

We are more than happy to be held accountable for these things, including in how we approach the important new work in front of us like the market study into personal banking services and the implementation of the grocery regime under the new Grocery Commissioner, Pierre van Heerden, who we welcomed to the Commission in July 2023.

Anna Rawlings handed over to John Small as Chair in December 2022, having led the Commission during a period marked by the worst of the pandemic and very significant growth in the scope of our responsibilities. Other key changes around the Board table include the appointment of Anne Callinan as the new Deputy Chair at the Commission. Anne is a senior commercial litigation partner and the Chair of Simpson Grierson, with more than 30 years' experience in commercial litigation, acting as counsel in a wide range of proceedings including interim injunctions, sentencing hearings and commercial arbitrations.

We are thankful to Sue Begg for agreeing to stay on to support a smooth transition and for supporting the Commission through significant change during her tenure as Deputy Chair and her sound leadership of the Commission's work on economic regulation of critical infrastructure services.

te Heamana o Simpson Grierson, neke atu i 30 tau ia e mahi ana i roto i te tikanga ture tauhokohoko, te tū hoki hei rōia tohutohu i roto i te whānuitanga o ngā hātepe pērā i ngā whakatauanga tārewa, ngā whakatauanga whiu me ngā whakataunga tautohetohe arumoni.

E haere ana ngā mihi ki a Sue Begg mōna i whakaae kia noho tonu ki te tautoko i te whakawhitinga pai, me tana tāutoko anō i te Kōmihana i runga i ngā panoni nui i te wā nōna te Heamana Tuarua me te tika o tōna ārahitanga i ā te Kōmihana mahi i runga i te whakarite ohaoha i ngā ratonga hanganga whai tikanga.

Ko ētahi atu kopounga ko tērā o Bryan Chapple rāua ko Nathan Strong hei Kaikōmihana Tuarua i Hūrae 2022. He kaiohaoha mana nui a Nathan, ā, he kaiwhakahaere tautōhito hoki ia i roto i te rāngai hanganga. I te hiku o te tau ka kopoua ko Bryan rāua ko Vhari McWha hei Kaikōmihana, me Rakihia Tau hei Kaikōmihana Tuarua o te Kōmihana. I kopoua a Bryan hei Kaikōmihana Tuarua i Hūrae 2022, ā, he kaiohaoha tautōhito, he kairataki ratonga tūmatanui matua hoki ia, e tino matatau ana ki te ōhanga o Aotearoa me te wāhi ki ngā ture ārahi.
He kaiohaoha tautōhito hoki a Vhari, ā, kua noho ia hei kaitohutohu i ngā kaupapa here tūmatanui me ngā ture ārahi, arā hoki i te tātaringa whakataetae me te hoanga mākete. Hei piki tūrangi ia ki a Kaikōmihana Elisabeth Welson nāna i whai koha hirahira ki te Kōmihana mō ngā tau 11.

He mea kopou a Rakihia e pā ana ki ngā take whakaara i raro i te Ture Arumoni, Ture Tauhokohoko Tika, Ture Kirimana Moni Taurewa, Ture Pūtea Kaiwhakapeto hoki, me te Ture Ahumahi Hinu – ka uru mai ia me tōna kete mātauranga ahumahi, arumoni, ohaoha hoki, me te mōhiotanga whānui rawa ōna ki ngā matatika a te Māori me te taha ki ao arumoni.

Kua rāhiritia hoki e mātou a Loretta Lovell hei mema o te Kōmihana Tauhokohoko, mō te taha ki te Torotoro Waea, te Arumoni, te Tauhokohoko Tika, ngā Kirimana Moni Taurewa me te Pūtea Kaiwhakapeto, me te Ture

Other appointments were Bryan Chapple and Nathan Strong as Associate Commissioners in July 2022. Nathan is a well-respected economist with significant management experience in the infrastructure sector. Later in the year, Bryan and Vhari McWha were appointed as Commissioners, and Rakihia Tau as an Associate Commissioner of the Commission. Bryan was appointed as an Associate Commissioner in July 2022 and is an experienced economist and senior public sector leader, with a deep understanding of the Aotearoa New Zealand economy and the role of regulation. Vhari is an experienced economist and has advised on public policy and regulation, including competition analysis and market design. She succeeds Commissioner Elisabeth Welson who has made a significant contribution to the Commission for 11 years.

Rakihia was appointed in relation to matters arising under the Commerce Act, Fair Trading Act, CCCF Act, and Fuel Industry Acts – bringing knowledge of industry, commerce and economics and extensive experience working with Māori rights and commercial interests.

We have also welcomed Loretta Lovell as an associate member of the Commission, with regard to the Telecommunications Act, Commerce Act, Fair Trading Act, CCCF Act, and Water Services Entities Act. Loretta has held governance roles in relation to iwi and Māori commercial and social entities, including currently as a Board member of Taumata Arowai, the Crown water quality regulator, and a member of Te Puna, the Māori Advisory Group to Taumata Arowai.

Together with the depth of experience we have brought on to the Board, it has also been extremely valuable connecting with our international counterparts from around the world on key competition and consumer protection issues through multilateral meetings this year in Sydney and at the OECD Competition Committee. Around these meetings have been bilateral discussions

Whakahaere Ratonga Wai. Kua kawe a Loretta i ngā tūranga kaitiaki e pā ana ki ngā whakahaere ā-iwi, whakahaere arumoni Māori, pāpori hoki, ā, i tēnei wā ko ia he mema Poari o Taumata Arowai, tā te Karauna kaitiaki kounga wai, ā, he mema hoki ia o Te Puna, te Rōpū Tohutohu Māori ki Taumata Arowai.

Hui katoa ēnei mātuaranga me ngā tohungatanga kua tau mai nei ki te Poari, he mea tino whai hua te tūhono atu ki ō mātou ritenga nō tāwahi huri te ao mō ngā tino take e pā ana ki te whakataetae me te whakamarumaru kaiwhakapeto, nā runga i ngā hui o tēnei tau i Poihākena i Kōmiti Whakataetae o OECD hoki. I roto i ēnei hui ko ngā whakawhiti kōrero me ngā umanga he rite tō rātou whai mana me te Kōmihana nei i Ahitereiria, i Ingarangi, Ūropi (Directorate-General for Competition), i Kānata me Te Hononga o Amerika, ā, i whai wā hoki ai ki te toro i te CMA (Competition and Markets Authority) me te Financial Conduct Authority i Rānana e titiro ana ki ngā ture hou i te UK, ngā whakamātauranga mākete me te pāpātanga o ngā ture ki ngā mākete matihiko, he kaupapa tērā e tino hāngai ana ki ngā kaiwhakapeto i Aotearoa, arā ko ēnei momo take ā-ao whānui kāore e herea ana e ngā rohe o tētahi whenua ake.

I a mātou ka pūrongorongo i ā mātou tutukitanga i roto i te tau 2022/23 i raro i a Adrienne Meikle hei Kaiwhakahaere Mātāmua mō te nuinga o te tau pūtea, ka tahuri mātou āianei ki te arotahi ki tā te Kōmihana Tauhokohoko ahunga rautaki hou me ngā putanga kei te kimihia hei painga mō ngā tāngata o Aotearoa e takoto ana ki tā mātou Tauākī Whakapuaki i ngā Whakamaunga Atu 2023-2027.

Ka anga atu tātou ki te tau kei te tū mai me ō mātou wawata mō ngā tau e rima e heke mai ana, ka tono mātou i a koutou kia mau mōhio ki tā mātou mahi, me pēhea koutou e tuku whakaaro mai mō ngā mahi nei hei painga anō mō Aotearoa.

Me mahi tahi tātou mō te oranga o te katoa.

with agencies that have similar mandates to the Commission in Australia, the UK, Europe (Directorate-General for Competition), Canada and the US, and we have also had time with the CMA (Competition and Markets Authority) and the Financial Conduct Authority in London looking at new legislation in the UK, market studies and the impact of regulation in digital markets, which is very relevant to Kiwi consumers on these matters that are effectively global and not defined by domestic geographies.

In reporting on our achievements during 2022/23 under the leadership of Adrienne Meikle as Chief Executive for much of the financial year, we have now turned our focus to the Commission's refreshed strategic direction and the outcomes we are seeking to deliver for New Zealanders set out in our Statement of Intent 2023–2027.

As we look to maintain momentum in the year ahead and our ambitions for the next five years, we invite you to learn more about our work programme, and how you can help inform our mahi for the good of New Zealand.

Me mahi tahi tātou mō te oranga o te katoa.

[redacted]

Dr John Small
Heamana
Chair

[redacted]

Vanessa Horne
Kaiwhakahere Mātāmua
Chief Executive Officer (acting)

Ngā kai o roto
Contents

01

Ko mātou me ā mātou arotahi mahi
Who we are and our big picture focus

Key topics:

- What we do and our vision and strategy
- How we are funded
- Evolving to address regulatory challenges
- Looking ahead
- Rautaki Māori

Ko mātou nei
Who we are and what we do

As an independent Crown entity, we are a key contributor and steward of Aotearoa New Zealand's economic regulatory system. We have a diverse range of monitoring, rule-making and compliance roles.

We operate in a complex environment and our role is vital to promoting the long-term public interest of all New Zealanders. Ensuring our independence and impartiality, understanding and knowledge of the sectors we regulate, ensuring a balanced focus between education and enforcement and retaining a big-picture focus are essential to effective regulation that benefits our country's economy.

Our core functions include:

1. protecting consumers and businesses from misleading and deceptive practices
2. monitoring and promoting competition in telecommunications, fuel and grocery markets and preventing the misuse of market power and anti-competitive arrangements
3. addressing cartel behaviour
4. preventing mergers and acquisitions that substantially lessen competition
5. addressing poor, misleading or unbalanced information affecting competition in a market
6. achieving the best possible outcomes in regulated markets for the long-term benefits of both consumers and businesses.

We operated under the following legislative framework as at 30 June 2023:

Credit Contracts and Consumer Finance Act 2003

Protects the interests of consumers in relation to consumer credit contracts, consumer leases and buy-back transactions of land.

It includes provisions relating to disclosure and unforeseen hardship and sets out rules about interest, payments, credit fees, responsible lending and lender certification.

Commerce Act 1986 (Parts 2, 3, 3A and 5)

Prohibits anti-competitive behaviour and acquisitions that substantially lessen competition.

It also provides for a clearance and authorisation regime for mergers and restrictive trade practices and enables the Commission to carry out competition (or market) studies.

Commerce Act 1986 (Part 4)

Provides for information disclosure and the regulation of price and quality of goods and services in markets where there is little or no competition and little or no likelihood of a substantial increase in competition.

Sectors that are currently subject to the provisions of Part 4 are electricity distribution and transmission, gas pipelines and selected airport services.

Fuel Industry Act 2020

Promotes competition in engine fuel markets for the long-term benefit of fuel users.

It establishes a wholesale pricing regime, rules governing wholesale contracts, an information disclosure regime and requirements for the display of price information at retail fuel sites.

Telecommunications Act 2001

Regulates the supply of certain wholesale telecommunications services (including the price and quality of fibre networks) and the quality of retail services.

Dairy Industry Restructuring Act 2001

Promotes the efficient operation of dairy markets in Aotearoa New Zealand by regulating the activities of Fonterra to ensure New Zealand markets for dairy goods and services are contestable.

Grocery Industry Competition Act 2023

Establishes a monitoring and reporting regime for the grocery sector, provides for the making and enforcement of a Grocery Supply Code to promote fair conduct between grocery retailers and suppliers and includes a range of default and backstop regulatory tools to promote the availability of reliable and cost-effective wholesale supplies of groceries.

Retail Payment System Act 2022

Promotes competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers.

It establishes a monitoring regime for the sector, puts in place an initial pricing standard to regulate the interchange fees of Visa and Mastercard networks and provides a range of other tools to regulate fees, prices and access to networks.

Water Services Entities Act 2022

Establishes water services entities and provides the Commission functions to scrutinise entity initial asset management and funding and pricing plans.

Fair Trading Act 1986

Prohibits false and misleading behaviour by traders and a range of other unfair business practices.

It also requires that consumers are given specified information about certain products and promotes product safety.

Tā mātou tirohanga roa, rautaki hoki
Our vision and strategy

Our vision

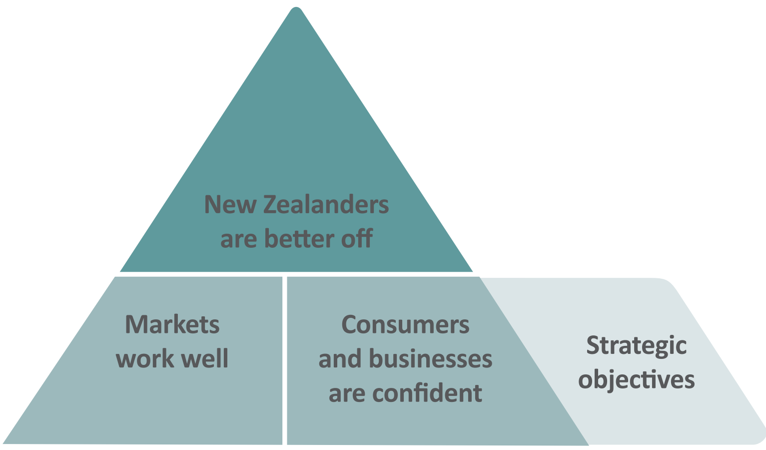
New Zealanders are better off because markets work well and consumers and businesses are confident market participants.

Our strategy

This Annual Report describes our performance during 2022/23 as we worked to influence market outcomes to better serve the long-term interests of New Zealand consumers.

It reports our progress against our Statement of Intent 2020–2024[1] and the two strategic objectives of ensuring:

- markets work well
- consumers and businesses are confident market participants.



It also describes how we performed against the measures outlined in our Statement of Performance Expectations 2022–23.[2]

Using our voice to influence the regulatory system

We are a key contributor and enabler of the economy through robust yet fair regulation.

As an independent, multi-functional regulator, our role is to work within Aotearoa New Zealand's regulatory system to protect consumers, promote effective competition and reduce anti-competitive behaviour.

We reinforce and balance active and effective use of our enforcement powers with education and advocacy. We aim to ensure markets function as they should, and regulation is used where necessary. Our mahi helps to ensure Aotearoa New Zealand's economy continue to deliver long-term benefits for both consumers and businesses.

1 https://comcom.govt.nz/__data/assets/pdf_file/0014/222305/Statement-of-Intent-20202024.PDF
2 https://comcom.govt.nz/__data/assets/pdf_file/0027/286623/Statement-of-Performance-Expectations-202223.pdf

Here are some examples of our successes in 2022/23. More detail can be found in section 2 of this report.

Focus area	What we did	Contributes to
Evolving market dynamics of relevance	**Established the grocery monitoring regime**	Markets work well
	Prepared for potential water reform	
	Published fuel monitoring reports	
Reducing anti-competitive behaviour and the misuse of market power	**Took enforcement action against anti-competitive land covenants and issued guidance on the new misuse of market power test**	Markets work well
		Businesses are confident market participants
Building our knowledge of various sectors	**Continued to strengthen our engagement with stakeholders on current and emerging issues (advocacy and education)**	Consumers and businesses are confident market participants
Regulated sectors are incentivised to perform efficiently	**Continued our work on the input methodologies review under Part 4 of the Commerce Act**	Businesses are confident market participants
	Continued to monitor the overall performance of the telecommunications industry	Consumers are confident market participants
New laws and regulation are relevant, well-targeted and effective	**Worked on strengthening the retail payment services monitoring regime**	Markets work well
		Businesses are confident market participants
Better consumer credit protections	**Took action to ensure that home and personal loan borrowers receive appropriate disclosures (Kookmin Bank settlement)**	Consumers and businesses are confident market participants
Educate New Zealanders about consumer laws	**Continued engagement and education on credit issues with borrowers and lenders**	Consumers and businesses are confident market participants

Although our work during 2022/23 was informed by our 2020–2024 strategy, we also began evolving our work to reflect our new strategic direction and the outcomes we are aiming for. We refreshed our strategy and our new Statement of Intent 2023–2027,[3] which reflects our ambition for more connected outcomes, impacts and outputs. Additionally, our work was also influenced by the new regulatory powers we acquired (refer to page 9), notably preparing to implement monitoring and enforcement of the grocery sector and preparing for water reform and regulation.

3 https://comcom.govt.nz/__data/assets/pdf_file/0016/321721/Statement-of-Intent-2023-2027.pdf

Ngā ara pūtea mai
How we are funded

Our funding comes from the Crown[4] through funding from general taxes (such as PAYE and GST) and from industry levies.[5]

Where our money comes from

In 2022/23, we received a total of **$87.0 million** in funding and other revenue. We spent $85.1 million on making New Zealanders better off by improving business and consumer confidence in our markets.

Our funding for 2022/23

Revenue – Crown	Revenue – Crown	Other revenue
General taxes	Industry levies	Interest, fees and recoveries
$56.4m	$28.2m	$2.5m

Our expenditure for 2022/23

We spent $85.1million during the financial year. Below is a summary of how we spent our funding.

Our expenditure for 2022/23

Competition and market studies	Consumer (incl Fair Trading and Credit)	Infrastructure and economic regulation	Market regulation	Major litigation
$14.9m	$20.2m	$21.0m	$20.8m	$8.3m

4 We receive funding through the Vote Business, Science and Innovation Estimates of Appropriations and Supplementary Estimates of Appropriations 2022/23.
5 Industry levies are charged directly to businesses in regulated industries such as dairy, electricity and gas suppliers and the telecommunications industry.

Table A below shows what we are funded to deliver by output class area.

This section, the sections 'Funding to address regulatory challenges', 'Working to make a difference' and the output class information provided in section 6 of this report (pages 91 to 134) represent the Commission's service performance prepared according to Public Benefit Entity Financial Reporting Standard 48 Service Performance Reporting (PBE FRS 48).

Table A: Our output class areas

What we are funded to deliver by output class area	Appropriation	Strategic objective[6]
Competition – regulating markets and preventing anti-competitive behaviour	Enforcement of competition regulation and merger control	Markets work well
Competition – examining market factors affecting competition and identifying how markets can work better	Market (competition) studies	Markets work well
Consumer (including fair trading and credit) – protecting consumers from harmful market behaviour	Enforcement of consumer regulation	Markets work well Consumers and businesses are confident market participants
Economic regulation – promoting competition in the telecommunications industry for the long-term benefit of end users	Regulation of telecommunications services	Consumers and businesses are confident market participants
Economic regulation – promoting competition in fuel markets	Liquid fuels monitoring and enforcement	Consumers and businesses are confident market participants
Economic regulation – ensuring regulated suppliers of electricity lines deliver reliable and resilient services at the lowest cost	Regulation of electricity lines services	Markets work well
Economic regulation – ensuring regulated suppliers of gas pipeline services deliver reliable and resilient services at the lowest cost	Regulation of gas pipeline services	Markets work well

6 From our Statement of Intent 2020–2024.

What we are funded to deliver by output class area	Appropriation	Strategic objective[6]
Economic regulation – ensuring regulated airport services (price and quality) are delivered for the benefits of consumers	Regulation of specified airport services	Markets work well
Economic regulation – milk price monitoring and ensuring efficient operation and contestability in the milk-purchasing market	Enforcement of dairy sector regulation and auditing of milk price setting	Markets work well
	Enforcement of competition regulation under the Dairy Industry Restructuring Act 2001	
Economic regulation – promoting efficiency in the retail payment system for the benefit of consumers and businesses	Retail payment systems administration and enforcement	Markets work well
		Consumers and businesses are confident market participants
Economic regulation – reviewing the rules (input methodologies) to ensure monopolies deliver reliable and resilient services to consumers at the best cost	Review of Commerce Act input methodologies for economic regulation	Markets work well
		Consumers and businesses are confident market participants
Economic regulation – preparing for economic regulation and consumer protection for water	Transition and implementation of economic regulation and consumer protection regime of three waters	Markets work well
Economic regulation – preparing and implementing the grocery industry competition regulation regime	Transition and implementation of competition regulation for the grocery industry	Markets work well
Major litigation – undertaking complex or major litigation where needed for market regulation or specific activities to achieve the best possible outcomes	Litigation funds (internally and externally sourced)	Markets work well
		Consumers and businesses confident market participants

Te takatū ki ngā wero ā-ture mai
Evolving to address regulatory challenges

Addressing challenges and issues as they arise in the regulatory system is a key part of the work we do.

In 2022/23, we received funding to establish the grocery monitoring regime and prepare for water regulatory reform. Significant additional funding for new initiatives is outlined in Table B.

The recent regulatory changes that occurred in 2022/23 were a result of Government policy and legislative changes while other changes resulted from the work we did to address specific issues. Examples include a new test for anti-competitive behaviour by businesses with substantial market power, introducing new protections against unfair trading practices and a new regulatory regime to monitor retail payment services (refer to Table C).

To be able to successfully implement the new regulatory regimes that the Commission is now responsible for, we have focused on building capability and capacity in these new areas. Table D outlines regulatory changes that take effect in the 2023/24 financial year.

Funding to address regulatory challenges

Some of the additional regulatory work we have been tasked with was accompanied by additional funding.

Table B: Significant new initiatives funding in 2022/23

Initiative	2022/23 $m	2023/24 $m	2024/25 $m	2025/26+ $m	Location of performance information	Location of supporting financial information
Retail payment system regulation	$4.577*	$5.111	$5.111	$5.111	Pages 23 and 128	Page 134
Water economic regulation transitional funding	$1.613	$2.387	To be confirmed	To be confirmed	Page 131	Pages 134 and 160
Grocery industry competition	$4.790	$6.979**	$7.286**	$7.286**	Pages 130	Pages 134 and 160
DIRA (Fonterra capital restructuring)	$1.628	$2.348	$2.348	$2.348	Page 129	Pages 134 and 160

* Funding of $3.750 million already provided prior to Budget 2022.
** Funding provided in Budget 2023.

We are resourcing our other additional responsibilities from our existing financial baseline, which includes additional funding provided in Budget 2020 towards maintaining and building the Commission's capability and capacity, phased in over four financial years. The additional funding provided in 2022/23 (across several appropriations) in this category totalled $1.352 million, with one final increase of $2.781 million in 2023/24.

Funding for our ongoing role in establishing and implementing an economic regulation and consumer protection regime for water may be confirmed during 2023/24. Funding is expected from levies on the regulated entities, consistent with funding for our other infrastructure responsibilities (for example, electricity lines and fibre networks).

Table C: Regulatory changes that came into effect between 01 July 2022 and 30 June 2023.

Legislation	Changes that came into force
Fair Trading Amendment Act 2021	The Fair Trading Act 1986 was amended to introduce new protections against unfair practices. The key provisions include: • prohibiting unconscionable conduct • extending prohibitions on unfair contract terms in standard form consumer contracts to also cover standard form small trade contracts • enabling people to direct uninvited direct sellers to leave or not enter their property. The substantive provisions came into effect on 16 August 2022.
Sunscreen (Product Safety Standard) Act 2022	The Act establishes a standard that specifies requirements for testing and labelling of sunscreen products as a product safety standard under the Fair Trading Act 1986. The requirements for testing and labelling came into effect on 8 September 2022.
Commerce Amendment Act 2022	The amendments strengthen the Commerce Act's prohibition against the misuse of market power (section 36). They also: • repealed the Commerce Act's exceptions relating to intellectual property • increased the maximum penalty for anti-competitive business acquisitions • introduced provisions to explicitly enable information sharing with other government agencies. The key changes came into effect on 5 April 2023.
Consumer Information Standards (Origin of Food) Regulations 2021	The Regulations introduce a consumer information standard under the Fair Trading Act 1986 that imposes country of origin labelling requirements for single-ingredient, minimally processed fruit, vegetables, meat, seafood and cured pork. From 12 February 2022, businesses must disclose where certain fresh and thawed food comes from that they supply, offer or advertise for supply to consumers in New Zealand. From 12 May 2023, the Regulations also apply to frozen food in the above categories.
Retail Payment System Act 2022	The Act empowers the Commission to monitor the retail payment system and regulate designated retail payment networks for the long-term benefit of New Zealand businesses and consumers who rely on it every day to buy and sell goods and services. Visa and Mastercard networks have initially been categorised as 'designated networks' by the Act and became subject to an initial pricing standard from November 2022. The Act allows the Commission to put in place various other forms of regulation for designated networks and to recommend to the Minister that other networks within the retail payment system should be designated as regulated.
Water Services Entities Act 2022	The Act establishes new water services entities. It also provides the Commission with functions to scrutinise initial entity asset management and funding and pricing plans ahead of the proposal for a substantive economic regulation and consumer protection regime.
Dairy Industry Restructuring (Fonterra Capital Restructuring) Amendment Act 2022	The Amendment Act took effect between 1 January 2023 and 1 June 2023. Among other changes, the Act strengthens the Commission's oversight of the base milk price-setting regime.

Legislation that passed or was in development between 1 July 2022 and 1 July 2023, but did not take effect in that period, is shown in Table D below.

Table D: Regulatory changes that take effect in the new financial year.

Legislation	Changes coming into force
Fuel Industry Amendment Act 2023	The Amendment Act supports the terminal gate pricing requirements in the Fuel Industry Act 2020 by providing a pathway for regulating terminal gate prices if the Commission finds them to be above competitive levels. Under this process, the Commission may recommend that the Minister of Energy and Resources imposes regulation on terminal gate prices, in which case the Commission would then be required make a price determination. The Amendment Act came into force on 27 July 2023.
Grocery Industry Competition Act 2023	The Act was introduced in response to the Commission's market study into the retail grocery sector and came into force on 10 July 2023. It gives the Commission new powers to monitor and regulate the grocery sector. Among other things, the Act puts in place a competition monitoring regime, establishes a new wholesale supply regime, and provides for a grocery supply code to be made to protect the interests of suppliers .
Water Services Economic Efficiency and Consumer Protection Act 2023	The Act puts in place an economic regulation regime that will allow the Commission to set information disclosure requirements, quality standards, maximum allowable revenues, and service quality codes for the new water services entities, including providing for consumer protection.

Our evolving regulatory responsibilities

Our evolving regulatory remit means that our organisation has continued to grow during 2022/23. Our focus is on robust regulatory stewardship to support the new powers and monitoring regimes the Commission is responsible for. New responsibilities have influenced our need to review and revise how we measure success as we embed our new outcomes framework.

Our work aims to address current and future issues and challenges such as:

- prioritising the issues that cause the most harm to businesses and consumers and that negatively impact the economy
- striking the right balance between change and regulatory predictability (no 'set and forget' regulation)
- addressing competition in New Zealand's grocery sector and embedding the grocery sector monitoring regime after the Grocery Industry Competition Act 2023 was enacted on 10 July 2023
- ensuring the regulatory regimes for essential infrastructure are flexible enough to respond to a changing operating environment, including the investment needed for network growth and climate change adaptation
- improving our engagement across various sectors to better understand current and emerging issues and helping to influence important regulatory policy and legislative changes so that it is clear what problem needs to be mitigated
- helping to shape a regulatory system that supports digital and technological transformation as technologies such as artificial intelligence become more widely used by businesses and consumers
- improving existing regulation under the Retail Payment System Act 2022 and monitoring performance of the retail payment system
- providing guidance on how to consider competition when developing policy, considering sustainability collaborations and responding to emergencies
- continuing to lift our role as an effective regulatory steward by ensuring regulatory changes and our regulatory approaches consider all perspectives including improving outcomes for Māori.

Te anga whakamu – kia hua te pito mata
Looking ahead – realising our potential

During the year, we developed a new outcomes framework and reshaped our strategic direction. We published a new Statement of Intent 2023–2027, which highlights the specific areas we will pay attention to now and in the future. We aim to realise our potential by taking a holistic approach to our regulatory stewardship role.

We will also continue to work on ensuring that our strategic enablers, such as our Rautaki Māori, workforce strategy and performance framework and the way we use our resources are aligned to further lift our capability and deliver the outcomes we seek.

We have developed an outcomes framework with four connected outcomes and 10 impacts:

Ngā putanga Outcomes

Kaitiaki
Stewardship

New Zealanders, including Māori, have trust and confidence in the regulatory systems that we implement and enforce.

Mākete whakataetae
Competitive markets

New Zealanders receive the benefits of competition: greater value, innovation, productivity and choice.

Tauhokohoko tōkeke
Fair trade

Consumers, including businesses, are informed, empowered and their interests are protected.

Ngā tino ratonga
Essential services

Consumers get quality and value from reliable essential services.

Ā matou pānga
Impacts

Stewardship

New Zealanders understand and value the Commission's role as regulator because we are:

- viewed as a modern and responsive regulator
- visible and engaging proactively with stakeholders
- supporting Māori to achieve their aspirations through our work and engagement
- ensuring our processes are open and transparent.

Competitive markets

Anti-competitive conduct is deterred.

Harmful concentration of market power is prevented.

Barriers to entry, harm caused by imbalances in market power and information asymmetries are identified and reduced.

Fair trade

Consumers have the information they need to know their rights and make informed choices.

Businesses have the information they need to know their obligations.

Consumer interests are protected.

Essential services

Essential services providers are delivering services of appropriate quality at reasonable cost.

The performance of essential infrastructure is monitored and reported on to enable effective public scrutiny.

The ability to extract excessive profits for essential services is limited.

Rautaki Māori mō Te Komihana Tauhokohoko

We finalised our Rautaki Māori (Māori Strategy) during 2022/23. Our Rautaki Māori is a critical enabler of the Commission's new strategic direction and covers three key focus areas.

Focus area 1: Cultural capability

Cultural capability in te ao Māori is a critical initial focus for the Commission as it provides the foundation required to deliver. It includes growing our understanding of te reo Māori, kawa, tikanga, our history and Te Tiriti o Waitangi.

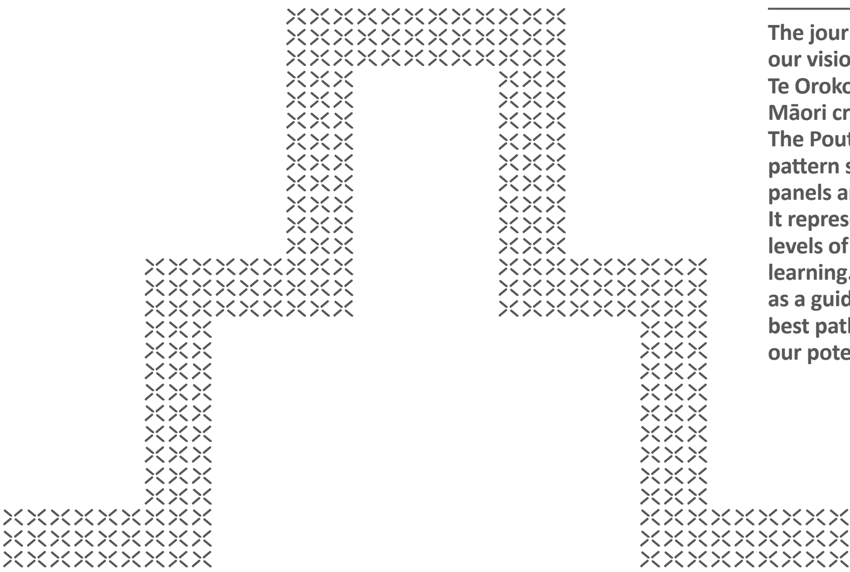
Focus area 2: Policies and processes

This focuses on identifying opportunities for improving how we incorporate mātauranga Māori (Māori knowledge) into our everyday work.

In doing this, we aim to build more considered and inclusive practices in how we operate, better preparing us to partner with Māori.

Focus area 3: Working with Māori

In this area, the strategy will focus on ensuring our people have access to the tools they need to support the development of meaningful and long-standing relationships with Māori.



The journey to achieve our vision is inspired by Te Orokohanga – the Māori creation story. The Poutama is a stepped pattern seen in tukutuku panels and woven mats. It represents the different levels of knowledge and learning. We use this model as a guide to identify the best path to take to realise our potential.

These focus areas will help further shape our strategic thinking and are foundational to developing current and future work programmes. By ensuring we have the tools and skills to build capability, we can engage authentically and grow, strengthen and build enduring relationships with Māori. We will be able to better support Māori-Crown relationships and Māori interests and give effect to our Te Tiriti o Waitangi obligations. By ensuring all perspectives are valued, considered and included in our work, we will help shape and benefit the economy through effective regulation that supports the aims and aspirations of all New Zealanders.

Growing cultural capability

During 2022/23, we continued to grow our organisation's cultural capability. We launched our first Mahere Reo (Māori Language Plan) in September 2022. We ran our first cultural capability survey to understand what support our people needed to progress their ability to work with Māori and build their knowledge of tikanga and te reo Māori. We also rolled out internal and external training opportunities for our people and increased participation in pōwhiri and mihi whakatau to welcome our people.

Loretta Lovell (Rongomaiwahine, Ngāti Kahungunu, Whakatōhea) was appointed as the Commission's first Māori wāhine Associate Commissioner in May 2023. In June 2023, Rakihia Tau (Ngāi Tūāhuriri, Ngāi Tahu) was appointed as Associate Commissioner.

We are also developing an engagement framework that will provide clear guidance on when and how we engage with Māori to achieve better outcomes for all.

Te tautoko i ngā pakihi hanganga kia urupare ki ngā panoni āhuarangi
Supporting regulated infrastructure businesses to respond to a changing climate

The recent weather-related events in 2023 have highlighted the importance of essential infrastructure to New Zealanders, the economy and our day-to-day lives. These events are a reminder on the importance of network investment in both climate change mitigation and adaptation. The Commission has a role in assessing proposed investment to best promote the long-term interests of end users and ensure consumers get value for money from essential infrastructure services.

The Government's emissions budgets and emissions reduction plans are aimed at meeting the target of net zero for long-lived greenhouse gas emissions by and beyond 2050. This is a key aspect of the operating context for regulated infrastructure businesses and the Commission as an economic regulator. Regulated electricity transmission and distributed businesses need to ensure there is capacity to support increased renewable electricity generation and increased electrification. At the same time, there is a need for more system flexibility and increased investment in climate change adaptation for all regulated infrastructure businesses.

Our role is to regulate the monopoly infrastructure aspects of the supply chain in specific essential services industries like electricity, gas, airports and fibre networks. In most cases, consumers have no alternative but to rely on these networks. We use economic regulatory tools to promote certain outcomes consistent with those found in competitive markets so that consumers are not disadvantaged by the lack of competition.

Under Part 4 of the Commerce Act, we are responsible for regulatory regimes involving electricity lines, gas pipelines and certain airport services. Under Part 6 of the Telecommunications Act, we are responsible for the same type of economic regime involving fibre networks. We oversee stable regulatory regimes across these sectors to enable investment, innovation and value for money in essential infrastructure for the long-term benefit of consumers. This includes the investment needed to ensure that infrastructure industries in New Zealand are prepared for changes such as decarbonisation and climate change. Each regime is designed and implemented to ensure consumers receive appropriate minimum levels of service quality while service providers can make reasonable profits. The alternative is less predictable regimes that could dampen the significant capital investment required in infrastructure and allow monopoly providers to generate excessive profits while not providing appropriate levels of service quality and value.

To promote these outcomes, we use a range of regulatory tools such as price-quality and information disclosure regulation to analyse and provide information on the performance of regulated businesses. We can also take enforcement action when monopolies break the rules.

In section 2 of this report, we outline key aspects of our work in 2022/23 that contribute to better essential services.


TRUCK SHOP

02

Ā mātou tukunga hei painga mō Aotearoa
What we delivered to make New Zealanders better off

Key topics:

2022/23 Ngā mea hirahira
2022/23 highlights

Te mahi e puta ai he tino hua
Working to make a difference – six case studies

Ā mātou tukunga hei painga mō Aotearoa
What we delivered to make New Zealanders better off

Our work programmes support our regulatory and strategic directions and vision in the following areas:

- **regulating monopoly infrastructure performance for better essential services**
- **improving competition by targeted regulation in selected markets**
- **promoting competition in markets throughout the economy**
- **tackling harm to consumers, including from unfair trading practices and lending practices that breach consumer credit laws.**

This section provides a snapshot of some of the key work we have delivered during 2022/23. These highlights show our focus continues to be on ensuring regulated businesses perform as they should, competition is promoted and improved, and that we address harm from unfair trading practices.

Regulating monopoly infrastructure for better essential services

Providing information about performance is one of the main ways we can influence the behaviour of regulated businesses to invest in essential infrastructure that delivers the price and quality that would be expected if these markets were competitive.

Our performance monitoring and reporting on regulated businesses is an effective and efficient way of improving transparency about performance, which can affect the reputation of the business and its relationships with stakeholders.

Information disclosure regulation is the main way we gain insight into the performance of regulated businesses. Network companies must publish information on prices, measures of quality, financial information and future operating and capital expenditure (including asset management plans) under the information disclosure requirements of Part 4 of the Commerce Act. The information gathered is used to inform stakeholders, discern trends, make comparisons, highlight asset management practices, set price-quality paths and identify any non-compliance.

HIGHLIGHT

Monitoring electricity networks for non-compliance with quality standards

We hold electricity networks to account when the level of electricity supply outages exceeds the limits we impose. We investigate breaches of quality standards when an electricity distribution business either self-reports a breach or we identify a breach through assessing the performance information provided. Compliance investigations involve a range of activities, including review of information, independent expert assessments and on-site visits. After this, we may take no further action, issue compliance advice or warning letters, or undertake court proceedings. In deciding what action to take, we consider the seriousness of harm, the seriousness of conduct and the public interest.

In 2022/23, we issued a warning letter to an electricity distribution business and the High Court imposed a penalty on another electricity distribution business for contravening network quality standards through excessive power outages. The two companies involved disclosed their contravention of quality standards and have subsequently changed their practices.

The warning letter was issued to Aurora Energy Limited for an excessive level of power outages in 2020, the last of a series of breaches of its network quality standards relating to historical underinvestment in the replacement of assets and maintenance on the network.

The financial penalty was imposed on Vector Limited (Vector) for breaches of network quality standards relating to excessive power outages from 2017 to 2020. While Vector had taken measures to address its previous non-compliance with the quality standards relating to outages, it had failed to adhere to good industry practice by taking those steps too late to prevent the contraventions in the 2017 to 2020 years. The $1.158 million penalty amount imposed by the High Court was jointly recommended by the Commission and Vector Limited.

We also issued a warning letter to Vector in relation to a financial leaseback transactions that would have increased its regulatory asset base by approximately $300 million.

Vector co-operated with our investigation, and its constructive approach towards engagement led to a good outcome for consumers by preventing the company increasing charges to consumers without providing any service improvements or infrastructure investment.

2022/23 Ngā mea hirahira
2022/23 highlights

HIGHLIGHT

Regulating fibre network services

The fibre networks New Zealand has built over the past decade under the Government's Ultra-Fast Broadband programme are critical to every aspect of social and economic life in New Zealand, and to our success in the digital future.

The Commission regulates services provided over fibre networks in Aotearoa New Zealand and the regulatory regime under Part 6 of the Telecommunications Act 2001 has been set up to deliver quality and value for New Zealand consumers while promoting continued investment in this essential infrastructure.

In 2021/22, we put in place the final components of the economic regulatory regime for fibre services in New Zealand, which involved setting information disclosure requirements and a price-quality path. A key building block for both information disclosure and price-quality regulation is the value of fibre assets, known as the regulatory asset base (RAB). Our final decisions in November and December 2021 included a transitional initial RAB value, and in October 2022 and June 2023, we finalised the RABs that will apply respectively to Chorus and other regulated fibre service providers.

Together, these decisions finalise the initial settings of the new regulatory regime for fibre services, a process that began in 2018 with the passing of the new legislation. We now have in place an interlocking series of measures designed to incentivise providers to keep investing in world-class fibre services while constraining their ability to reduce quality or make excessive returns to the detriment of consumers.

In support of the new fibre regime, we made decisions in 2022/23 approving an individual capital expenditure proposal from Chorus and setting a four-year regulatory period for its next price-path, beginning in 2025.
The capital expenditure decision allows Chorus to recover the costs for payments that it makes to retail service providers to incentivise acquisition of new customers to its fibre network or to incentivise customers to upgrade to new services. The decision on the length of the next regulatory period moves the duration from three to four years. A four-year regulatory period balances the benefits of frequently resetting Chorus's revenues based on current and updated forecasts of expenditure and quality standards while allowing sufficient time for Chorus to find efficiencies as well as spreading the costs of a reset over a longer period.

Together, these decisions provide certainty and predictability conducive to efficient investment and flexibility to address uncertainty and a changing operating environment. Overall, the new regime continues to support the transition of fibre providers from being network builders to long-term asset managers focused on the long-term interests of fibre end users.

Improving competition by targeted regulation in selected markets

It is important to ensure that consumers are not disadvantaged by lack of competition in essential industries. We regulate these businesses to make sure New Zealanders receive good value for money when they buy essential services that are a necessary and important part of everyday modern life.
These include:

- energy and telecommunications – a significant cost facing almost all homes and businesses
- aviation and the airports in our three major cities – gateways for millions of passengers and a large volume of cargo
- dairy and raw milk – a core commodity in a sector that drives many rural economies
- fuel – a significant household expenditure and input cost for businesses
- the retail payment system.

HIGHLIGHT

Monitoring the performance of New Zealand's retail payment system

The retail payment system performs a critical function for the New Zealand economy for businesses and consumers alike. Every time someone buys something, gets paid, transfers money or uses an ATM, they are using the retail payment system. It is the most used financial service in Aotearoa New Zealand.

The retail payment system is made up of multiple payment networks, including debit and credit card networks, bank transfer networks, digital wallet networks and buy now, pay later networks.

Our purpose under the Retail Payment System Act 2022 is to promote competition and efficiency within the retail payment system. We have responsibilities to monitor the performance of the system and can regulate designated networks by:

- determining how prices can be set or expressed
- requiring greater transparency of certain information
- allowing other participants to appropriately access aspects of the network.

The Act also gives us the power to issue surcharging standards. These standards would seek to make any payment surcharges appropriate and no more than the costs of receiving the payment services, such as credit cards or contactless payments.

This year, our work has focused on implementing the limits on domestic interchange fees (which are the largest component of the fees associated with accepting Mastercard and Visa payments), engaging on our expectations for appropriate surcharging practices and better understanding the retail payment system.

Implementing limits on domestic interchange fees

The Act designates Mastercard and Visa credit and debit card as networks. From November last year, pricing limits apply to domestic interchange fees on these networks – interchange fees are the largest component of the fees associated with accepting Mastercard and Visa payments.

We started some initial analysis to assess who has benefited from the new regulation and by how much, with a report published in August 2023. Our initial estimate is that merchants are benefiting by $105 million per annum from the cap on interchange fees, which exceeds the government's estimate of $74 million when policy was being developed.

To support compliance with the price limits in the initial pricing standard, we published guidance explaining the obligations of Mastercard, Visa and other network participants and our approach to monitoring compliance with the standard.

Appropriate surcharging practices

To promote appropriate surcharging practices, we have engaged widely with payment services providers and merchants. Our intent is not to promote or discourage surcharging but to ensure that, where merchants exercise the choice to surcharge and where surcharging does occur, it is transparent and done appropriately. With merchants benefiting from reduced merchant service fees, we also expect consumers to benefit by way of reduced surcharges.

We have taken an engagement and education approach to address some concerns highlighted in our merchant research work. We published a range of materials to set out our expectations and highlight what we believe constitutes appropriate surcharging, including:

- a brief consumer guide to surcharges together with an accompanying timeline on the history of debit cards in Aotearoa New Zealand
- a brief merchant guide to appropriate surcharging that clarifies what we expect a surcharge to be and how one could be calculated
- an open letter to payment services providers outlining our expectations on how they are expected to assist merchants to appropriately surcharge.

We have also directly engaged some larger merchants with higher surcharges than we would expect. This has involved understanding their practices and ensuring they understand our expectations about surcharging. This work is ongoing, but several of these merchants have reviewed and are reducing their surcharges.

Understanding the retail payment system

Throughout this year, we have been engaging with participants across different retail payment networks to increase our understanding of the retail payment system and inform where to focus our efforts to deliver long-term benefits for consumers and merchants.

We have built ties with other members of the Council of Financial Regulators that have an interest in the payment space, primarily the Reserve Bank of New Zealand, to help build our understanding. We have also connected with some overseas payment regulators to learn from their experience and help us stay up to date with international developments.

Our initial monitoring work has allowed us to build a better picture of the retail payment system, the key participants and networks in the system and some of the more pressing issues. To better understand merchant perspectives about payments and how they engage with the payment system, we commissioned Kantar Public to survey 1,000 New Zealand businesses. We published Kantar Public's research report, along with our observations on how merchants engage with the retail payment system, which highlights that merchants are not always well served by the sector.

Promoting competition in markets throughout the economy

We seek to protect, lift and enhance competition in markets. Our work includes:

- reducing barriers to competition
- deterring anti-competitive conduct
- reducing the harm caused by misuse of market power
- merger approval and control.

Mergers and acquisitions can benefit the New Zealand economy by helping businesses compete more effectively through innovation, efficiency and scale. However, some mergers and acquisitions can harm competition and disadvantage consumers if they lead to increased prices and lower-quality goods and services. The Commerce Act empowers the Commission to assess whether business mergers and acquisitions might substantially lessen competition in relevant markets. Applying for merger approval through our clearance and authorisation regime is voluntary. The regime helps us to approve transactions that are unlikely to materially harm competition while preventing those that can harm competition.

In 2022/23, we reviewed mergers relating to a range of significant sectors of the economy (building supplies, digital markets, tourism, transport, healthcare, retail and telecommunications) and required divestments in two cases – THL/Apollo (which related to the rental of campervans) and Central Healthcare/Aorangi (which related to private hospital services in the Manawatū region). We also continued our work to prevent non-notified mergers causing harm to markets, in particular through litigation relating to the completed acquisition of Master Business Systems by Objective Corporation. The parties competed to supply software for building consent authorities. In July 2022, the High Court ordered Objective Corporation to pay a $1.54 million penalty in relation to the acquisition. In making this order, the High Court observed the importance of the building industry and the severity of the conduct.

HIGHLIGHT

Preventing anti-competitive land covenants

In 2022/23, we continued to focus on anti-competitive land covenants – where a party places a legal restriction on how land can be used. These restrictions can limit competitors' access to suitable sites for establishing competing businesses.

The potential impact of land covenants and exclusive leases on competition was a feature that we observed in each of the fuel, grocery sector and building supplies market studies.

Our final report on the residential building supplies market study included a recommendation that government conduct an economy-wide review into the use of land covenants, exclusive leases and contractual provisions with similar effect. The Ministry of Business, Innovation and Employment has since commenced that review.

In addition to that recommendation and to educate and raise awareness of the risks of anti-competitive land covenants, we undertook a covenants compliance programme in early 2023. We released a fact sheet on anti-competitive land covenants, and as follow-up work flowing on from the building supplies market study, we offered compliance training presentations to the major building merchants on the law around covenants. This training included the factors they should consider when lodging or enforcing covenants that could potentially impact competition.

We took court action over an anti-competitive covenant that NGB Properties Limited (NGB) placed on a site close to Mitre 10 MEGA Tauranga. The covenant was intended to stop Bunnings, a competitor to Mitre 10, from building a warehouse close by, which would deprive Kiwis in Tauranga of the benefits that might have come from a more competitive local market for DIY and building supplies.

In July 2023, the High Court imposed a $500,000 penalty on NGB. NGB is the sister company of Juted Holdings Limited, which operates Mitre 10 MEGA in Tauranga.

This is the first time a penalty has been imposed under section 28 of the Commerce Act, which prohibits the requiring, giving or enforcement of land covenants that have the purpose, effect or likely effect of substantially lessening competition. The High Court acknowledged that the issue of restrictive land covenants is a serious one.

We continue to investigate several land covenants in the grocery sector.

HIGHLIGHT

New misuse of market power test

The Commerce Commission Chair, Dr John Small, launched the new guidelines at a stakeholder event in Auckland on 29 March 2023.

On 5 April 2023, changes to section 36 of the Commerce Act came into effect. These changes address long-standing concerns with the legal test for whether conduct by businesses with market power stifles competition.

The amendment introduced an effects test in addition to the existing purpose test. The conduct of these firms can now be assessed against its effect on competition, allowing us to more successfully pursue conduct that was previously beyond our reach.

In preparing for the law change, we educated businesses and their advisers about the change in focus from the intent of conduct to its effect or likely effect on competition. This work has included publishing our Misuse of Market Power Guidelines in March 2023 following a public consultation process. The guidelines explain how the Commission will assess conduct under the amended section 36. This includes our approach to applying the 'substantial lessening of competition' test to unilateral conduct, particularly in the context of the new effects test. This was to give businesses clarity on how we will analyse anti-competitive behaviour under the new law. We also published a fact sheet accompanying the guidance.

HIGHLIGHT

Business collaboration in an emergency – Cyclone Gabrielle

Competition benefits consumers even in times of crisis. However, we are equally conscious of concerns that uncertainty over competition law enforcement could slow down necessary co-operation in an emergency.

In the wake of the extreme weather events this year in Northland, Auckland, Tairāwhiti Gisborne and Hawke's Bay, we wanted to communicate to both businesses and New Zealanders that proactive competition thinking can support long-term resilient markets.

We issued new guidelines in March 2023 to help businesses understand how and when they can collaborate in response to an emergency – such as working together in regions impacted by Cyclone Gabrielle. We wanted businesses to have access to simple and clear information about how to maintain the supply of goods and services during emergencies.

The guidance sets out the factors that the Commission will consider when approached by businesses who want to collaborate and respond to an emergency.

On 23 March, we also hosted a webinar for government and businesses on the role of competition in building resilient markets with Dr Andrea Coscelli, a leading European expert in anti-trust and competition economics.

We also began an outreach programme to key procurers and infrastructure providers in the public and private sectors involved in the recovery. The focus has been on engaging with them about competition issues, including the risk of their procurement being affected by cartel conduct like bid rigging and how to prevent it and spot it. Cartel conduct harms consumers by preventing businesses from competing to provide better-quality services at better prices, and it harms businesses that are trying to compete fairly. In May and June 2023, we also ran a fourth cycle of our cartel outreach campaign using both media and social media to promote cartel awareness to consumers and businesses.

Tackling harm to consumers

Under fair trading and consumer credit laws, we have responsibilities to ensure that New Zealanders are confident market participants. Our work includes:

- educating consumers, businesses and lenders about fair trading and consumer credit laws
- helping make sure consumers are not misled when buying goods and services and that consumers are properly informed
- ensuring that businesses are meeting the requirements of product safety and consumer information standards
- administering certification requirements for lenders
- investigating and taking appropriate enforcement action when businesses and lenders risk breaching fair trading and consumer credit laws.

HIGHLIGHT

Helping lenders understand and comply with the Credit Contracts and Consumer Finance (CCCF) Act

Before entering into a consumer loan with a borrower, the CCCF Act requires lenders to conduct a responsible lending affordability assessment to check that the borrower can afford the loan.

Car loans are among the biggest loans for many New Zealanders, so it is important that motor vehicle lenders understand and comply with their obligations when lending. In May and June 2023, we visited 21 motor vehicle lenders across Aotearoa New Zealand to talk them through recent changes to responsible lending affordability assessment rules. We provided lenders with a fact sheet to educate them on the changes, including changes to how lenders must assess a borrower's expenses in accordance with regulations.

In November 2022, we held in-person lender seminars in Wellington, Christchurch and Auckland. These enabled us to engage directly with lenders about our strategic, compliance and enforcement priorities, as well as respond to lender questions about their obligations under the CCCF Act. We presented on the topics of assessing affordability, assisting borrowers to reach an informed decision, required customer disclosures, assisting borrowers in financial difficulty and record keeping obligations. For those lenders unable to attend in person, we also held online seminars, which are available on our website along with Q&A that addresses questions raised by lenders during the seminars.

HIGHLIGHT

Mobile trader enforcement work

Mobile traders selling goods door-to-door on credit can present a high risk of consumer harm. By exposing consumers to high-pressure selling situations in their own homes, it can be difficult for consumers to walk away.

On 1 November 2022, we obtained creditor banning orders under the CCCF Act against mobile trader Ace Marketing Limited and its director Sandip Kumar on the basis that they are not fit and proper persons to be involved in providing credit under the CCCF Act.

The banning orders follow a decision of the High Court in December 2021 declaring under the Fair Trading Act that Ace Marketing had included unfair contract terms in its contracts with consumers. The unfair terms provided that consumers on deferred payment plans who missed a payment would have delivery of their goods delayed by up to seven weeks. Ace Marketing also breached CCCF Act responsible lending requirements by failing to highlight and explain the delayed delivery terms in a way that helped consumers reach an informed decision about entering the contract.

We also prosecuted Brent Andrews, a former director of Promodealz Limited (a mobile trader operating in Lower Hutt), for failing to comply with two statutory notices. He was required to provide information and attend a compulsory interview but failed to do both. These failures impacted our ability to conduct our investigation. He was convicted and fined in the District Court on 7 July 2023. This is the first fine for failing to comply with a notice issued under section 98 of the Commerce Act since penalties for non-compliance were increased in 2017.

HIGHLIGHT

Proceedings filed against high-cost lender

Following a recent review of the high-cost lending market, we filed civil proceedings on 30 June 2023 in the High Court against high-cost lender Eagle M.A.N. Group Limited. We alleged that it failed to comply with specific rules in the CCCF Act regarding high-cost consumer credit contracts, and failed to disclose key information borrowers are required to know about their loan before signing up.

These are the first court proceedings we have taken to enforce new rules in the CCCF Act relating to high-cost consumer credit contracts, which came into effect in 2020. Eagle M.A.N Group's contracts were high-cost consumer credit contracts because they provided for an annual interest rate exceeding 50%. We allege that Eagle M.A.N Group failed to ensure that the maximum amount of interest and fees charged did not exceed the amount of the first advance and that it wrongly engaged in repeat lending to borrowers who had previously entered high-cost loans.

Eagle M.A.N Group operated from two branches at premises shared with Christchurch supermarkets and online through its website. We believe that many of these borrowers were in a vulnerable financial position and recent immigrants to New Zealand.

HIGHLIGHT

Monitoring compliance with the new sunscreen product safety standard

We consulted with other government agencies on the development of the Sunscreen (Product Safety Standard) Act 2022, which came into force on 8 September 2022 under the Fair Trading Act. The Act mandates AS/NZS 2604:2012 ***Sunscreen products – Evaluation and classification*** to be a product safety standard.[7]

The new safety standard places obligations on businesses that supply sunscreen products in Aotearoa New Zealand, putting in place tighter rules to ensure sunscreen products go through consistent and internationally recognised testing and meet strict labelling criteria. For manufacturers and importers, this means any sunscreen product should be independently tested to ensure it complies with the safety standard before being supplied in New Zealand. The Commission is the interim custodian of the safety standard until it is adopted by the Ministry of Health under the Therapeutics Bill from 2026.

A priority for us has been to communicate the introduction of this standard and provide information and guidance to enable compliance. We communicated widely via social media and direct email communication to businesses identified as likely to be subject to the new standard along with other interested stakeholders. Our website was further updated with new guidance. Our communications included a cautionary note to businesses about our successful prosecution of Ego Pharmaceuticals for making unsubstantiated representations about the SPF of two sunscreen products it supplied in New Zealand. Ego Pharmaceuticals was fined $280,000 in Auckland District Court in November 2022.

We followed up our broad communication activity by targeting more than 30 businesses we believed were at risk of not complying with the new standard. This targeting was possible due to having information on file about products making SPF or broad-spectrum claims along with the results of proactive inspections carried out by the Commission's staff. Independent laboratory testing carried out by Consumer NZ further helped us identify potentially non-compliant products.

During 2023/24, we will continue to monitor and receive information about compliance with the safety standard.

7 Product safety standards are set by Standards NZ or equivalent overseas agencies. It should be noted that AS/NZS 2604:2012 has been superseded by the 2021 version but not yet withdrawn.

Te mahi e puta ai he tino hua
Working to make a difference

We strive to ensure that the work we do at the Commission helps to make New Zealanders better off and markets work better.

The six case studies in this section highlight the significant and ongoing work we have done over the 2022/23 year. These case studies also demonstrate that we are committed to taking all factors into consideration to ensure that our work delivers value and benefit to all New Zealanders.

CASE STUDY

Monitoring New Zealand's telecommunications sector

Telecommunications services support New Zealanders in all aspects of their lives. With 87% of New Zealanders now able to connect to fibre, the focus is shifting to the remaining 13% outside the national fibre footprint where connectivity options have historically been limited. We are supporting this shift by shining a light on competition in these predominantly rural and remote areas through different aspects of our market monitoring work.

Annual monitoring report[8]

We have restructured our flagship Annual Telecommunications Monitoring Report to look more deeply at the performance and development of the market in rural areas. Our first deep dive shows a shift away from copper, the historical backbone of connectivity in rural areas, with copper connections falling below 50% and satellite now the fastest growing technology.

While the options for rural consumers are increasing, there is a clear difference in performance and cost between urban and rural areas. Urban households have to spend 1.1–1.7% of their average income to purchase Fibre 300 (the most popular fibre broadband plan). The same income share in rural areas only buys basic copper broadband, while 2–3% of rural household income is needed to buy high-speed broadband.

Measuring Broadband New Zealand

We have expanded our Measuring Broadband New Zealand programme, which independently measures broadband performance across New Zealand, by introducing monitoring of technologies offered in rural areas. These technologies include 4G and 5G wireless broadband provided by mobile operators, WiMax broadband provided by regional wireless internet service providers and satellite broadband. This expanded testing is showing higher download speeds for Starlink satellite than other available technologies, and that 4G wireless broadband is slower in rural areas than in urban areas.

Rural connectivity study

We have also initiated a study to build up a detailed picture of connectivity in rural and remote areas. We are interested in what technologies are available in different areas, at an individual address level, who is providing them, and what pricing and performance looks like for consumers. This study will complement the detailed information we already have for connectivity in urban areas and will be helpful for policy makers, advocacy groups and rural consumers.

Financial information

Telecommunications monitoring costs

Total 2022/23

$2.730m

Refer to pages 106–110 for more information about our telecommunications output class.

8 https://comcom.govt.nz/__data/assets/pdf_file/0028/318907/2022-Annual-Telecommunications-Monitoring-Report-15-June-2023.pdf

CASE STUDY

Improving retail service quality

This year, we have progressed our ongoing work to improve retail service quality for telecommunications consumers. This work targets specific pain points that drive high levels of consumer complaints and aims to develop practical solutions through collaborative engagement with key industry and consumer stakeholders.

Telecommunications dispute resolution service membership

A key component of ensuring that retail service quality meets consumer expectations is having an effective dispute resolution scheme that deals with all issues that consumers are unable to resolve directly with their providers.

The Telecommunications Dispute Resolution Scheme (TDRS) is free and independent but is only available to consumers if their provider is a member of the scheme. This scheme has been improved as a result of recommendations made by the Commission, but there are currently 120,000 consumers who are unable to access the TDRS to resolve a dispute because their provider has chosen not to join.

In 2022, we published a list of which large providers are members and non-members of the TDRS to increase consumer awareness.[9] The TDRS membership list, which can be found on our website, is revised regularly to ensure it remains up to date.

9 https://comcom.govt.nz/regulated-industries/telecommunications/telecommunications-for-consumers/what-to-do-when-you-have-a-dispute-with-your-broadband-or-mobile-provider

Customer service

In 2022, we issued proposals for improving customer service, including a dashboard that ranks the performance of major providers so that consumers know what levels of customer service they can expect from different providers and encourage an uplift in performance over time.

We proposed that the dashboard would rank the performance of different providers in the two areas of customer service that matter most to consumers – how quickly providers are able to resolve issues and how helpful their staff are in getting that done.

We proposed that the dashboard would be updated every six months using independent customer survey data.

We received extensive feedback on this proposal and will shortly be releasing the next steps in this process.

Product disclosure

The difficulty of comparing plans and providers is a major driver of customer dissatisfaction and complaints.

We issued an emerging views paper in 2022 that sought views on proposals to enable consumers to more easily compare telecommunications plans and providers in the areas of mobile coverage, average pricing, total costs, plan inclusions and bundle pricing.

We received extensive feedback from industry and consumer groups, as well as over 1,000 responses from individual consumers to a survey on product disclosure issues.

We are considering how to take this work forward in light of the feedback we have received so that consumers can make more meaningful comparisons and informed choices.

Retail service quality monitoring

To support different aspects of our retail service quality work programme, we have commissioned a monthly customer satisfaction monitoring survey that provides a direct view of customer service from a consumer perspective. The survey consults 600 consumers across a range of providers each month and includes matters such as how quickly issues are resolved, how helpful and knowledgeable providers' staff are, and the ease of contact and communication with providers.

Financial information

Telecommunications retail service quality monitoring costs

Total 2022/23

$2.087m

Refer to pages 106–110 for more information about our telecommunications output class.

CASE STUDY

A regulatory regime that can respond to change (input methodologies review)

In 2022/23, we continued to progress our statutory review of input methodologies for energy and airports. These reviews occur on a seven-year cycle. Input methodologies are the rules and processes that underpin the Commission's price-quality and information disclosure regulation. The rules specify key components of the regulatory regime such as how we value assets, allocate costs, share risk between businesses and consumers and determine how businesses are compensated for their investments.

The review is a significant undertaking for the Commission. Our regulatory settings play a crucial role in helping regulated entities deliver the right outcomes for Aotearoa New Zealand, and the review is designed to test whether the underlying rules of the Part 4 regime are fit for purpose. Our focus is on how our rules can help support consumers in the transition to a low-carbon economy while encouraging innovation and the delivery of resilient energy network and airport services at the right cost. We want to ensure that the regulatory framework provides suppliers with incentives to invest, innovate and achieve efficiencies to be shared with consumers.

We are undertaking the review with the external environment very much in mind. The energy and airport sectors are in a period of change, particularly in relation to the transition to a low-carbon and climate-resilient economy. Technology and consumer preferences are evolving, and demand for electricity is expected to significantly increase while demand for gas is expected to decline. While this overall direction is clear, there is still significant uncertainty over the location, timing and extent of what is needed in terms of transmission and distribution infrastructure.

In June 2023, we published our draft decisions on the review for feedback with final decisions due by December 2023. Our draft decisions have focused on changes that draw on the flexibility of the Part 4 regime to address uncertainty and deal with change and are designed to support the transition to a low-carbon economy, encourage innovation and provide a level of regulatory certainty and predictability conducive to efficient investment. Overall, the current input methodologies do this well, but we have identified some areas where the rules can be refined to deliver better outcomes, increase certainty and reduce costs.

Helping stakeholders understand supplier performance in changing environment

The updated input methodologies will be used for the next reset of the default price-quality paths for electricity distribution businesses in 2025 and for natural gas pipelines from 2026 onwards. They also feed into our review of information disclosure requirements for electricity lines companies regulated under Part 4 of the Commerce Act.

In early 2022, we began our targeted review of the information that electricity lines companies are required to publicly disclose about performance. The review aims to ensure that the disclosure requirements are capturing and reporting on the information consumers and other sector stakeholders need to understand supplier performance. Listening to stakeholder feedback on previous work and initiatives we have undertaken has played an important role in the decision to undertake this review. Through this stakeholder feedback and our own analysis, we are aware that several changes are required to make the current information disclosure requirements more effective. This is driven by changes that are happening in the electricity sector, particularly the transition to a low-carbon and climate-resilient economy, which will significantly affect electricity lines businesses.

In November 2022, we introduced the first set of new requirements on local electricity lines companies to improve performance information available to consumers and other stakeholders. This additional information will provide greater transparency about how businesses manage their assets and are preparing for the potential impacts of decarbonisation and the quality of service they provide to consumers. The new information local lines companies will disclose is intended to shed a light on different aspects of their performance. For example, the new requirements will make it easier to understand how each local lines company is approaching new connections, how it promises to work with consumers (including addressing complaints) and how it will assess the impact of new connections on its network. The Commission believes the new requirements are important for understanding how local lines companies are performing for consumers and communities.

We continued to progress the review throughout 2022/23 with further work in the areas of quality of service, how local lines companies are preparing for decarbonisation and asset management. Further changes to the information disclosure requirements may also be required following the completion of the Part 4 input methodologies review.

Financial information

Input methodologies review (Part 4)

Total cost of this work to the end of the 2022/23 financial year

$5.588m

2022 – $0.423m

2023 – $5.165m

This work is funded through our input methodologies output class. Refer to page 125 for more information.

CASE STUDY *continued*

Other work that demonstrates the flexibility of the Part 4 regime

The price-quality paths we set under Part 4 provide certainty to suppliers about limits on revenue, quality standards and incentive mechanisms for efficiency and quality over the regulatory period. Our regime provides mechanisms to account for change and uncertainty in the price-quality path in several ways, including recoverable and pass-through costs, price-path reopeners and customised price-quality paths.

In November 2022, we made two sets of decisions reopening the price-path that applies to Transpower, the operator of New Zealand's national electricity grid. The reopeners were to allow Transpower to recognise additional revenue for capital expenditure proposals relating to building additional capacity in the national grid and allow Transpower to recover costs associated with development and implementation of a new transmission pricing methodology.

We made changes to the revenue that central North Island electricity distributor Powerco Limited can recover from its customers, following a $1.3 billion programme of investment in its network over the past five years. The decision related to the end of customised regulatory settings that Powerco had applied for in 2017. With the customised settings expiring, we were required to set new revenue limits for Powerco for two years until we reset the revenue limits applying to electricity distributors again in 2025. The new revenue limits for Powerco reflected investment that it has made to enable growth and maintain reliability for consumers. At the same time, the Commission has taken care to ensure lines charges reflect reasonable costs, with any increases to prices for customers being justified.

The range of regulatory tools in the Part 4 regime continue to provide predictable outcomes for suppliers and deliver the consumer benefits envisaged when the regime was introduced in 2008. Our ability to adapt the Part 4 regime in response to the external environment enables us to provide suppliers with incentives to invest, innovate and achieve efficiencies that they can share with consumers.

Performance information – analytics and insights

Providing information about performance is one of the main ways we can influence the behaviour of regulated businesses to provide essential infrastructure for the long-term benefit of consumers. Our performance monitoring and reporting on regulated businesses is an effective and efficient way of improving transparency about performance, which can affect the reputation of the business and its relationships with stakeholders.

Information disclosure regulation is the main way we gain insight into the performance of regulated businesses. Network companies are required to publish information on prices, measures of quality, financial information and future operating and capital expenditure (including asset management plans) under the information disclosure requirements of Part 4 of the Commerce Act. The information gathered is used to inform stakeholders, discern trends, make comparisons, highlight asset management practices, set price-quality paths and identify any non-compliance. We publish a wide range of material based on this information, including summary reports, databases and an interactive tool on our website that provides the most up-to-date performance information for electricity distribution. The targeted information disclosure review highlighted above relied on information disclosure regulation and the performance information involved.

In 2022/23, we continued to publish a wide range of performance information on our website. In addition to the targeted information disclosure review, we have published databases for all the sectors we regulate, performance summaries for electricity distribution and gas pipelines, performance trends for gas pipeline businesses and an updated performance accessibility tool for electricity distribution.

CASE STUDY

Residential building supplies – analysing the factors affecting competition

Residential building supplies market study

Market studies are in-depth studies into the factors affecting competition for particular goods and services. We do these studies to find out whether competition is working well and what else needs to be done if not.

In 2022/23, we completed a year-long market study (our third one) that focused on whether competition for the supply and acquisition of key residential building supplies is working. Key building supplies are used to build the major components of residential buildings – foundations, floors, roofs, walls and insulation.

We published our final report on the residential building supplies market study in December 2022.[10] We found that competition is not working as well as it could if it was easier for new building supplies to be introduced and for competing suppliers to expand their businesses.

We made nine recommendations[11] aimed at improving competition for key building supplies by enhancing the regulatory system, supporting sound decision making and addressing strategic business conduct.

One recommendation to enhance the regulatory system was to better serve Māori by providing more opportunities within the consenting system and supporting Māori businesses to expand and compete at scale.

The Government accepted our recommendations, including considering how land covenants, exclusive leases and contractual provisions can affect competition and business conduct. We started a compliance programme to promote broader compliance with sections 27 and 28 of the Commerce Act in relation to the use of a land covenants in the building supplies industry.

The Ministry of Business, Innovation and Employment continues to progress policy work on several strands relating to our recommendations through its review of the building consent system and an economy-wide review of the use of land covenants.

Financial information

Residential building supplies market study
Total cost (2021/22 and 2022/23)
$2.6m

This work is funded through our market studies output classes. Refer to page 98 for more information.

10 https://comcom.govt.nz/__data/assets/pdf_file/0013/300703/Residential-building-supplies-market-study-Executive-summary-6-December-2022.pdf

11 https://comcom.govt.nz/__data/assets/pdf_file/0015/300705/Residential-building-supplies-market-study-Recommendations-6-December-2022.pdf

CASE STUDY

Kookmin Bank settlement – protecting borrowers from breaches of loan disclosures

The Credit Contracts and Consumer Finance (CCCF) Act requires lenders to provide borrowers with key information about their loan before entering into a loan agreement. Information disclosure failures affect borrowers because they may not be able to make a fully informed decision when entering a loan and may not be aware of their rights around cancellation or hardship or of dispute scheme details.

On 30 June 2023, we entered into a settlement agreement with Kookmin Bank (Kookmin) relating to a failure by Kookmin to provide borrowers with key disclosure information about their loan before they signed loan contracts. Kookmin is based in South Korea and operates in New Zealand as a registered bank. Many of Kookmin's customers are migrants to New Zealand and have English as a second language, potentially making them more vulnerable.

Under the terms of the settlement, Kookmin admits to breaching initial disclosure obligations (section 17 of the CCCF Act) in relation to 483 home and personal loans and has agreed to pay a total of $11,029,000 to affected borrowers. Kookmin has also provided the Commission with enforceable undertakings to support the settlement. This includes an undertaking to provide us with interim and final reports relating to the refunds.

Kookmin failed to include several items of required information in its customer disclosures over the period 6 June 2015 to 21 October 2021. Missing items included information about a borrower's right under the CCCF Act to apply to the lender for payment relief if they suffer unforeseen hardship and the name and contact details of Kookmin's dispute resolution scheme. Kookmin also failed to disclose the total interest charges payable. Kookmin does not have any record of initial disclosure having been provided to some borrowers.

Where a lender fails to comply with their initial disclosure obligations, the CCCF Act provides that the lender is not entitled to (and must refund) all interest and fees paid by the borrower for the period of non-disclosure. For disclosure failures after 19 December 2019, the court can reduce the amount to be refunded if it considers it just and equitable to do so.

The amount Kookmin has agreed to refund reflects all interest and fees paid by borrowers affected by disclosure errors for loans entered into between 6 June 2015 and 19 December 2019 and for those loans where Kookmin has no record of disclosure having been made. Kookmin has also agreed to refund 50% of interest and fees paid for initial disclosure errors after 19 December 2019.

We opened our investigation into Kookmin following a proactive review of Kookmin's website contract disclosures.

Financial information

Kookmin Bank settlement

Total cost from the time we started to settlement

$0.243m

This work is funded through our consumer and major litigation output classes. Refer to pages 99–102 and 132–133 for more information.

CASE STUDY

One NZ investigation – protecting consumers from unfair trading practices

A record $3.675 million fine was handed down to One NZ (formerly Vodafone) for misleading consumers in the marketing of its FibreX broadband service. This penalty reflects the seriousness of One NZ's conduct. It also serves as a strong deterrent to other large businesses.

Every consumer should have confidence that a business's claims about its products and services are truthful and accurate. This is a requirement under the Fair Trading Act so that consumers have the information they need to make informed purchasing decisions.

One NZ was found guilty by the District Court in 2021 for misleading consumers into believing its FibreX service was fibre-to-the-home broadband when it was not. It was also found guilty of falsely suggesting to consumers that FibreX was the only available broadband service at their address. The conduct was misleading, and in addition to consumer harm caused, it distorted competition for the supply of broadband services in Aotearoa New Zealand.

In 2022, we appealed the original $2.25 million fine imposed on One NZ because we believed it was manifestly inadequate and did not appropriately reflect the seriousness of the offending nor the size and financial resources of the business.

In a judgment released in August 2023, the High Court allowed our appeal and agreed that a larger penalty was required to ensure it "stings", particularly given One NZ's history of not complying with the Act.

We believe this case sets a strong precedent for other businesses, especially large businesses, that there can be significant financial and reputational consequences for breaching the Fair Trading Act.

It is also a significant win for Kiwi consumers because every New Zealander should be able to trust what a business says in its marketing and promotion of its services.

Financial information

Vodafone FibreX

Total cost from the time we started to the end of the 2022/23 financial year

$2.480m

This work is funded through our consumer and major litigation output classes. Refer to pages 99–102 and pages 132–133 for more information.

03

Ā mātou whakahoatanga e whai ture tika ai
Our partnerships for greater regulatory effectiveness

Key topics:

Ā mātou whakahoatanga e whai ture tika ai
Our partnerships for greater regulatory effectiveness

We do not work in isolation because our work covers several complex regulatory regimes and our partnerships allow us to be a more effective regulator. Rapidly evolving technologies and the scale and pace of how these are rolled out and used by society means we must be agile enough to respond to these changes, especially if they have a negative effect on consumers or businesses. An example would be the growth of online sales and how problems in this area (such as misleading claims, unfair practices and product safety) can affect consumer confidence.

Our partnerships are far ranging. Domestically and internationally, we are independent but not alone.

Our international partnerships

We have a strong partnership with the Australian Competition and Consumer Commission (ACCC) and have a country co-operation agreement that focuses on the proactive and effective administration of consumer protection and competition law, and enforcement activities.

In addition to our work with the ACCC, we also work with many other international agencies in the ASEAN region (such as the Competition and Consumer Commission of Singapore), the United Kingdom Competition and Markets Authority, the Competition Bureau Canada and the United States Federal Trade Commission and Department of Justice. We also work with and participate in international groups and networks such as the International Competition Network, the International Consumer Protection and Enforcement Network (ICPEN), the OECD's Competition Committee, the OECD Network of Economic Regulators, the Utility Regulators Forum and the Regulatory Energy Transition Accelerator.

ICPEN is an international membership organisation consisting of 71 consumer protection enforcement authorities. We are an active member of this network and look to maximise the benefits of membership through robust international relationships and co-operation, access to international best practice and intelligence.

We contributed to the ICPEN Intelligence Steering Group (ISG)[12] as a co-lead with the 2022/23 ICPEN president, the ACCC, and the United Kingdom Competition and Markets Authority. The ISG is responsible for collating and evaluating intelligence that guides strategic decision making for ICPEN. Our role was to analyse and present the findings of the Annual Intelligence Survey to inform ICPEN priority setting.

12 The purpose of the ISG is to collate and evaluate intelligence from ICPEN members to identify shared issues and suitable strategic priorities for ICPEN.

Other roles we have held include co-leading the Misleading Environmental Claims project,[13] which we continue to co-lead in 2023/24, and participating in the Agency Effectiveness project.[14] Additionally, we routinely present, facilitate and attend ICPEN best practice sessions and play a key role in participating in the Advisory Group[15] tasked with supporting the ICPEN presidency.

Our national partnerships

We work with many stakeholders and collaborate across sectors and government agencies. Collaboration and information sharing is essential for effective regulation as our regulatory role continues to expand.

Council of Financial Regulators inter-agency co-operation

During the year, we engaged closely with other members of the Council of Financial Regulators (Reserve Bank of New Zealand, Financial Markets Authority, Treasury New Zealand and Ministry of Business, Innovation and Employment) as part of the Council's function of facilitating co-operation and co-ordination to support effective and responsive regulation of the financial system in New Zealand.

The Council chief executives have agreed to co-ordinate agency payment system initiatives to a joint vision for the payment system being reliable and efficient payments that better meet the evolving needs of all New Zealanders. This includes developing a roadmap for the vision. Council agency heads also approved a revamped regulatory initiatives calendar, which is published quarterly. This calendar contains information about our initiatives and that of other Council agencies affecting the financial sector, which enables industry to understand the volume and timing of upcoming regulatory initiatives. It also assists agency co-ordination around new planned initiatives.

After flooding in Auckland in January 2023 and then Cyclone Gabrielle, we worked together with other Council agencies to ensure that our responses and engagement with the financial sector were co-ordinated. We also worked with other agencies to progress the Council priority themes of financial inclusion, climate, digital and innovation, and regulatory effectiveness. Additionally, Council agencies have engaged jointly with industry as part of quarterly banking and insurance forums.

13 The Misleading Environmental Claims project aims to clarify issues affecting consumers, ensure members are equipped to address consumer harms, provide guidance to traders on preventing misleading and substantiating green claims, and improve consumer trust in environmental claims. This ICPEN project complements our work to reduce unfair trading practices.

14 The Agency Effectiveness project aims to enhance and improve the capability of individual ICPEN members with a focus on governance, advocacy and enforcement. This will be achieved through sharing information and experiences that have enhanced or improved the overarching operations of ICPEN members. Project work will involve discussing prioritisation and initiation of cases, advocacy strategies and how to effectively use ICPEN to engage with businesses and consumers.

15 The Advisory Group has membership from 18 countries and meets once a month to discuss ICPEN priorities, upcoming events and the state of play of various projects.

Ngāti Whātua Ōrākei welcomed international delegates to the 21st annual ICN Cartel Workshop in Auckland in December 2022.
Photo credit: Brendon O'Hagan

2022/23 partnership events

International Competition Network Cartels Workshop

We hosted the 21st annual International Competition Network (ICN) Cartel Workshop in Auckland in early December 2022. The theme of the workshop was how to respond to a changing world when undertaking cartel enforcement, with a focus on the post-COVID world and the impact of developing technologies. Over 200 people attended online and 167 people attended in person, including representatives from 54 countries. The workshop was an opportunity for agencies to share their experiences around the detection, investigation and enforcement of cartels. The workshop was also a great way for us to engage with our Pacific neighbours who are at different stages of their cartel enforcement journeys. We were grateful to have the support of Ngāti Whātua Ōrākei who led the welcome to all our international delegates.

International Consumer Protection and Enforcement Network Annual Conference

As ICPEN president, the ACCC hosted the annual conference from 9–12 May 2023 in Sydney, Australia. The conference consisted of in-depth strategic and corporate sessions and best-practice workshops aimed at addressing significant and pressing consumer issues. We explored how effective collaboration between international regulators can help resolve these complex issues.

We contributed to the event though keynote presentations, chairing various sessions such as the effectiveness of ICPEN as a global network and co-chairing roundtable discussions with international counterparts. We also facilitated discussions on the needs of newer agencies and how to improve the effectiveness of ICPEN as a global network.

The Commission's Chair delivered a keynote speech on our perspective on the role of international regulatory co-operation in the context of contemporary economic trends and challenges.

We reconfirmed our commitment to help better protect consumers in Asia-Pacific following further discussions that highlighted contemporary challenges faced by authorities in the ASEAN region. This included exploring novel interventions to help face those challenges.

A conference highlight was a session on innovations in consumer protection. This session included examples of new or proposed consumer protection innovations designed to reduce harm. Other innovation examples included using psychologists to assess harm to consumers from online marketing tactics used in social media and implementing artificial intelligence tools in enforcement work. We intend to monitor the development and success of these innovations through our international relationships and future engagements to better inform our concept of harm.

The conference provided us with insights to support the design and prioritisation of our international work during the 2023/24 financial year and identify opportunities to work with our international counterparts.

OECD Competition Committee Meeting

In June 2023, we attended the OECD Competition Committee Meeting in Paris. The purpose of this meeting was to bring together high-level representatives of the OECD member countries to discuss issues of global interest relating to competition. We also spent a week in London with the Competition and Markets Authority and the Financial Conduct Authority learning about new legislation in the United Kingdom, market studies and the impact of regulation in digital markets.

Dr John Small, Commerce Commission Chair, with Sarah Cardell, Chief Executive Officer of the UK Competition and Markets Authority.

Nui te whakaanga, nui ake te māramatanga
Engaging more for better insights

A large component of our work is education and advocacy. Understanding what is important to businesses and consumers is essential. The feedback we get from them gives us important insights into matters of concern and emerging issues. This year, we commissioned a survey to understand more about how our stakeholders see our role and our effectiveness as an economic regulator. These surveys provide valuable insights to help inform our work.

We continue to expand our engagement with community groups, consumer interest groups, businesses and industry groups and associations to identify themes that affect how the regulatory system is working and where we need to prioritise our efforts around compliance, education and enforcement, including knowledge sharing.

As well as understanding key issues that are important for our stakeholders, it is important for us to hear from them about our work across the areas we regulate.

We held stakeholder meetings in May at events hosted in Wellington and Auckland. These events provided an opportunity for our Chair, Dr John Small, to talk more about our role and the work we do for the long-term benefit of New Zealanders and the economy.

Engaging with Māori and Pacific Peoples communities about borrowing

We identified a need within Māori and Pacific Peoples communities for increased education to improve consumers' confidence when making decisions about borrowing money.

In June 2023, we worked with community connectors to hold engagement workshops with Pacific Peoples and Māori communities. These workshops helped us gather feedback and insights from the community on channels and tools that can assist Māori and Pacific Peoples in navigating the complex landscape of borrowing money. Our aim was to enable participants to contribute to shaping solutions that will better empower Māori and Pacific Peoples to make informed financial decisions and protect their rights.

At the workshops, we introduced our new resource for borrowers[16] that we developed in consultation with other government agencies, industry and community group stakeholders. The guide aims to help borrowers understand what to expect from lenders when borrowing money and where to seek help so they are confident they can do so safely. We also promoted the guide through a social media campaign.

16 https://comcom.govt.nz/__data/assets/pdf_file/0020/300368/A-quick-guide-to-borrowing-money-November-2022.pdf

“Irresponsible lending can have a devastating impact on the health of a whānau.”

– Ruth Smithers, Chief Executive Officer, FinCap

Ngā Rā Whakaaturanga ā-Motu Hune 2023 – he arotahi ki ngā kaupapa nui ki ngā tāngata o Aotearoa

Spotlight on National Fieldays – shining a light on topics important to New Zealanders

Fieldays is one of New Zealand's and the southern hemisphere's largest agricultural events, held in Hamilton most years in June. The event provides a showcase for innovation and education for New Zealand's agricultural and primary sectors.

Fieldays, held from 14–17 June 2023, attracted over 105,000 visitors.

This year was an opportunity for us to pilot a scaled-up engagement approach at a large event like Fieldays. This was an important opportunity for Vanessa Horne (acting Chief Executive), Nick Russ (General Manager, Market Regulation) and staff to engage with rural farmers, businesses and visitors.

The agricultural and primary industries are essential to New Zealand's economy. It is crucial that we understand the issues that are important to rural people and businesses, including how farmers and consumers can benefit from improved competition and fair deals. Rural connectivity was a particular concern for site visitors. We wanted to highlight our important work in this area and understand the extent of issues consumers are experiencing. We also wanted to raise awareness of the Commission's work, provide information to businesses and consumers about their rights and provide attendees with the opportunity to report any complaints or concerns to us.

Commission staff engaging with attendees at Fieldays.

Acting CEO Vanessa Horne speaking to Fieldays participants.

In keeping with our Fieldays engagement theme, 'Shining a light', we put the spotlight on six significant topics to New Zealanders:

- **Grocery sector and the grocery market study**
- **Substantiating advertising claims**
- **Rural broadband**
- **Telecommunications providers, with the focus on reading the 'fine print' and comparing price, quality and coverage**
- **Cartels**
- **Online shopping**

Other topics of interest to attendees included the new grocery regime, fair trading and cartels.

We also had a high level of engagement across the social media campaign we ran during Fieldays.

We estimate that we engaged with almost 2,000 people and businesses, including several advocacy groups. We received positive feedback from many attendees about our presence at Fieldays to raise awareness of initiatives under way, such as our Measuring Broadband New Zealand programme.[17]

Following Fieldays, we received an extra 30 subscriptions to this programme to help us track broadband performance and help consumers choose the best broadband for their needs.

17 This study provides consumers with independent information on broadband performance across different providers, plans and technologies. See **https://measuringbroadbandnewzealand.com/**

04

Te Poari, ōna hanga me ngā kaiarataki

Our governors, leaders and governance structures

Key topics are:

Our Board, Commissioners and our governance structure

Board attendance

Remuneration disclosures for the Commission's members and associate members

Our Senior Leadership Team

Tūtaki mai ki ō mātou Kaikōmihana
Meet our Commissioners

The Board

The Commission is governed by a Board of Commissioners. Our Board is responsible for the overall performance of the Commission and its divisions and committees.

The Governor-General, on the recommendation of the Minister of Commerce and Consumer Affairs, appoints Commission members for their knowledge of, and experience in, areas relevant to the Commission's interests. The Telecommunications Commissioner is appointed on the recommendation of the Minister for Broadcasting and Media.

Dr John Small
Chair
(from 5 December 2022)[18]

Dr John Small was appointed as Chair in December 2022 and first joined the Commission in December 2018. John is the Founding Director of economic consultancy firm Covec and was also the former head of the University of Auckland's Economics Department. He has extensive experience undertaking complex competition analysis in a wide range of sectors, including energy, transport, agriculture, telecommunications, payment systems and construction. John was also previously a lay member of the High Court of New Zealand, frequently called as an expert witness before courts, tribunals and commissions.

18 Until his appointment as Chair, John served as a Commissioner.

Anna Rawlings
Chair
(until 5 December 2022)[19]

Anna Rawlings served as Chair from 2019 to 2022 and first joined the Commission in June 2014. She was previously a partner in the dispute resolution division of Minter Ellison Rudd Watts, where she specialised in contentious and non-contentious 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.

19 Following her term as Chair, Anna served as an Associate Commissioner from 5 December 2022 until 31 May 2023.

Sue Begg

Deputy Chair
(until 10 July 2023)[20]

Sue Begg was appointed as a Commissioner in June 2009 and served as Deputy Chair from July 2010 to July 2023. She was also appointed as an Associate Member of the Australian Competition and Consumer Commission from April 2016 to June 2019. Sue is an economist, whose 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.

From July 2023, Sue takes on a role as Associate Commissioner until the end of 2023.

20 Following her term as Deputy Chair, Sue Begg is now serving as an Associate Commissioner.

Anne Callinan

Deputy Chair
(from 10 July 2023)

Anne Callinan was appointed as Deputy Chair in 2023. Anne is a commercial litigation lawyer with deep experience of competition and regulatory law. Prior to joining the Commission, she worked for Simpson Grierson, becoming a Partner in 1997 and finally the firm's Chair in 2018. She has a BA/LLB from the University of Auckland.

Tristan Gilbertson

Telecommunications Commissioner

Tristan Gilbertson was appointed as Telecommunications Commissioner in June 2020. He is a corporate and commercial lawyer with extensive international experience in telecommunications law and regulation. After an early career in private practice, Tristan was appointed Legal & Regulatory Director – Asia-Pacific at Vodafone Group Plc, where he was closely involved in the expansion and diversification of Vodafone's business. He then joined Telecom New Zealand Ltd where he was Group General Counsel and played a leading role in the structural separation of Telecom and the re-set of the regulatory framework. Most recently, he was Group General Counsel of Digicel Group Ltd, where he focused on transformation and change across Digicel's 32 global markets. Tristan holds a BA/LLB(Hons) from the University of Auckland and has completed the Executive Leadership Development Programme at the Wharton School of the University of Pennsylvania.

Pierre van Heerden

Grocery Commissioner (from 13 July 2023)

Pierre van Heerden was appointed as Grocery Commissioner in July 2023. He is an experienced chief executive and board member with sound knowledge of the grocery industry spanning across New Zealand, Australia and the United Kingdom. Pierre has previously held senior roles in the grocery industry, including as Chair and Deputy Chair of the New Zealand Food and Grocery Council. He has also held executive positions as Chief Executive Officer of Mojo Coffee in New Zealand, Chief Executive Officer of Brancourts Dairy Group in Australia, Managing Director of Dick Smith Foods in Australia and Executive General Manager of Sanitarium Health and Wellbeing in New Zealand. He holds several qualifications, including BBA, Hons BCom, Hons BCompt, MBL, and is a qualified Chartered Accountant, FCPA, MInstD and GAICD. He also completed recent studies at both London Business School and INSEAD on a Prime Minister's Business Scholarship.

Dr Derek Johnston

Commissioner

Dr Derek Johnston was appointed as a Commissioner in November 2019. A commercial lawyer, Derek has extensive experience and knowledge of competition law coupled with significant mergers and transactional experience and familiarity with many of the regulated sectors. His past roles include being the independent Chair of NZX's Regulatory Governance Committee and the Chair of the NZ Markets Disciplinary Tribunal. For many years, Derek was a corporate partner with Russell McVeagh and most recently has been practising as a barrister and arbitrator at Thorndon Chambers. Derek holds undergraduate and postgraduate degrees in law from the University of Auckland and a doctorate in law from the University of Toronto.
In December 2022, Derek was appointed as an Associate Member of the Australian Competition and Consumer Commission until 31 October 2024.

Bryan Chapple

Commissioner[21]

Bryan Chapple joined the Commission in 2022. Bryan is an experienced economist and senior public sector leader with a deep understanding of the Aotearoa New Zealand economy and the role of regulation.
He was Deputy Secretary (Growth and Macroeconomics) at the New Zealand Treasury from 2017 until joining the Commission in 2022 as an Associate Commissioner. In that role, Bryan led the Treasury's work on micro- and macro-economic policy, including regulatory strategy. Through his senior leadership roles, Bryan has experience in supporting organisations through change and in promoting high performance.

21 Bryan was first appointed an Associate Commissioner on 29 August 2022, before being appointed a Commissioner on 5 June 2023

Vhari McWha

Commissioner[22]

Vhari McWha joined the Commission in 2020. Vhari is an experienced economist and has advised on public policy and regulation, including competition analysis and market design. She has a background in quantitative analysis, including cost benefit, modelling and forecasting work. Vhari has specific expertise in the energy sector. Prior to joining the Commission in September 2020 as an Associate Commissioner, Vhari was a Director at Sapere. Her earlier roles include Deputy Director at the economic consultancy NZIER and Regulatory Affairs Manager at Meridian Energy. Vhari holds an MCom (Hons) in economics from the University of Canterbury.

22 Vhari was first appointed an Associate Commissioner in 2020, before being appointed a Commissioner on 5 June 2023.

Elisabeth Welson

Commissioner[23]

Elisabeth Welson was appointed to the Commission in 2012. 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 and 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.

23 Elisabeth's term as a Commissioner ended on 5 June 2023. However, pursuant to section 13(4) of the Commerce Act, she remains a member of the Commission for the purpose of completing the determination of a number of matters that arose and she was involved with prior to the end of her term.

Associate Commissioners

Alongside Commissioners, the Minister of Commerce and Consumer Affairs may also appoint Associate Commissioners to the Commission. Associate Commissioners are appointed for specific classes of matters and are deemed to be members of the Commission only for the matters they are appointed for. Associate Commissioners are not members of the Commission's Board.

Joseph Liava'a

Associate Commissioner

Joseph Liava'a was appointed as an Associate Commissioner in April 2019. Prior to joining the Commission, Joseph worked as the Community Liaison Manager for Nirvana Health Group. Before that, he was a consumer law advisor for the former Ministry of Consumer Affairs and also worked as a private secretary for the Minister. Joseph has also given consumer law training to budget advice services and community law centres. He has been involved with a variety of boards and panels, including Pacific Health and Welfare Inc, Vaiola Pacific Island Budgeting Service Trust (Māngere) and Otara Health Charitable Trust, as well as the board of Consumer NZ.

Nathan Strong

Associate Commissioner (from 29 August 2022)

Nathan Strong is a qualified economist with over 20 years' experience focusing on applied competition and regulatory economics, including at senior management levels in regulated companies. He was General Manager (Commercial) at Unison Networks having first been appointed to the executive team at Unison in 2010. Nathan was also Chair of the Electricity Networks Associations' Regulatory Working Group, a Member of the Electricity Authority's Security and Reliability Council and has previously been a member of several Electricity Authority advisory groups.

Loretta Lovell
Associate Commissioner
(from 31 May 2023)

Loretta Lovell (Rongomaiwahine, Ngāti Kahungunu, Whakatōhea) is also a lawyer, independent environmental commissioner and professional director.

For over 20 years, Loretta has specialised in public, commercial, energy and resource management law. As an environmental commissioner, she has considered multiple complex plan and consent applications involving among other things te ao Māori, telecommunications, electricity lines and generation, and water matters. Loretta is currently a Board member of the Crown water quality regulator Taumata Arowai and a member of Te Puna (Māori Advisory Group to Taumata Arowai). She is also a member of Te Rātā Atawhai | Charities Registration Board and serves on the board of the Energy Efficiency & Conservation Authority. Loretta has also acted on behalf of iwi and Māori as a governor on their commercial and social entities.

Rakihia Tau
Associate Commissioner
(from 26 June 2023)

Rakihia Tau (Ngāi Tūāhuriri, Ngāi Tahu) brings knowledge of industry, commerce and economics and extensive experience working with Māori rights and commercial interests. His experience with Māori/ Crown relationships dates back to the original Ngāi Tahu Treaty settlement negotiations, and he has an ongoing involvement in various Māori businesses and organisations at both executive and board level. Rakihia's experience includes managing Ngāi Tahu Holdings strategic policy, litigation and external relations as well as providing business advisory services and having a range of governance roles.

Cross-appointments with the Australian Competition and Consumer Commission (ACCC)

Under the Single Economic Market Outcomes Framework agreed between the New Zealand and Australian Governments in 2009, it was agreed that certain members of each country's competition agency could be cross-appointed to the other country's competition agency. This would support convergence in the way the two regulators approach similar issues under competition and consumer laws.

Cross-appointees to the Commission are appointed as Associate Commissioners and are most often allocated to areas that will involve Australian enterprises such as merger determinations. There are currently two members of the ACCC cross-appointed to the Commission.

Anna Brakey

Anna Brakey was appointed a Commissioner of the ACCC in December 2020. She is also an Associate Member of the Australian Communications and Media Authority.

Anna has extensive experience in regulatory economics and public policy with over 25 years' experience working with regulators, government and the private sector. She has had broad exposure to a wide range of infrastructure industries, including energy, water and transport. She has also worked on economic reform to social policy.

Prior to starting at ACCC, Anna worked as an economist at Frontier Economics and held a number of roles at the Independent Pricing and Regulatory Tribunal, including being a deputy Tribunal Member, Executive Director of Strategy and Economic Analysis and Chief Operating Officer. Anna's expertise includes the Parliamentary Committee process, the New South Wales Department of Transport, the Australian Productivity Commission, the Bureau of Industry Economics and the Australian Bureau of Statistics. Anna has also worked for the Australian Energy Market Commission on reforms to economic regulation and with the New South Wales Treasury on the sale of assets.

Anna chairs the ACCC's Infrastructure Committee, Communications Committee, Electricity Markets Inquiry Board and East Coast Gas Market Board and is a member of the ACCC's Competition Exemptions Committee and Agriculture Board.

Anna holds a Bachelor of Economics from the Australian National University and a graduate Diploma of Applied Finance and Investment from Securities Institute of Australia. She is also a graduate of the Australian Institute of Company Directors.

Stephen Ridgeway

Stephen Ridgeway was appointed a Commissioner of the ACCC in June 2019. Stephen brings a wealth of experience from his previous roles as a lawyer in the private and public sectors. He is widely recognised as one of Australia's leading competition and consumer lawyers and an expert in the field. In 2018, Stephen retired as a senior partner at King & Wood Mallesons.

Early in his career, Stephen acted for the ACCC and its predecessor, the Trade Practices Commission, in enforcement litigation as a senior lawyer with the Australian Government Solicitor. Since joining private practice in 1998, Stephen has had extensive involvement in merger clearance applications in a wide variety of industries, including energy and telecommunications. He also has extensive experience in regulatory enforcement actions, including several landmark ACCC enforcement matters in recent years.

During 2011 and 2012, Stephen was National Chairman of the Competition and Consumer Committee of the Law Council of Australia and led consultations with the ACCC and Treasury about policy and enforcement matters. He was a member of the Executive Committee of the Business Law Section of the Law Council of Australia from 2016 to 2018.

Stephen chairs the ACCC's Mergers Review and Competition Exemptions Committees and is a member of the ACCC's Enforcement Committee, Communications Committee and Agriculture Board.

Stephen holds a Bachelor of Science (Honours) from the University of New South Wales and a Bachelor of Laws from the Australian National University.

Te mahi whakahaere a te Poari
Governance of our organisation

Our governance framework is established under the Commerce Act 1986 and the Crown Entities Act 2004.

Board functions and operations

The Commission's Board governance arrangements and responsibilities include:

people and culture

strategy and performance

managing and mitigating risks

financial oversight

health and safety, including due diligence to ensure the Commission complies with workplace health and safety requirements and actively engages in matters affecting the health, safety and wellness of our people

government and ministerial relationships, including giving effect to or complying with any special directives such as undertaking a personal banking services market study, which commenced on 20 June 2023

significant decisions

oversight of the Commission's divisions and committees

legislative compliance to ensure operations comply with the Commission's legal obligations and legal and internal policy requirements.

Disclosures of interests

Before being appointed, all Commissioners must disclose all interests as soon as practicable to the Minister of Commerce and Consumer Affairs (or in the case of the Telecommunications Commissioner, to the Minister of Broadcasting and Media). The Board has a conflicts of interest process to ensure the independence of the Commission is maintained and decisions are free of bias. The Commission maintains a register of interests for all Commissioners, which is reviewed and updated regularly and provided to the Board at each scheduled Board meeting.

During the 2022/23 year, where any potential conflicts of interest were identified, these were subject to a rigorous legal review before any Commissioner was allowed to act.

Committees and Divisions

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 the Commission's work more efficient

using advisory committees to the Board such as the Audit and Risk Committee

overseeing a broad variety of strategies, policies, processes, systems, frameworks and analytical approaches to help ensure effective decision making.

The Board ensures that Ministers and our monitoring department, the Ministry of Business, Innovation and Employment, are informed regularly throughout the year of our performance, progress, issues, risks and any matters affecting the Commission. This is communicated through regular meetings, organisation performance reports, response to the Minister's Annual Letter of Expectations, Annual Reports, Statements of Performance Expectations and Statements of Intent.

Our Chair establishes separate divisions of the Commission to exercise the powers of the Commission under the laws we enforce. Divisions can include Board members or Associate Commissioners. Divisions meet as required. As at 30 June 2023, the Commission had the following committees and divisions:

Committee	Purpose
Audit and Risk Committee	Assists the Board in achieving the Commission's vision and strategy by providing assurance that good-practice audit, risk management and finance is implemented in the organisation.
Enforcement Practices Committee	Advises the Board on strategic matters relevant to the Commission's enforcement practices.
Groceries Committee	Assists the Board in overseeing the establishment of a new regulatory role for the Commission in the grocery sector.
Remuneration Committee	Advises the Board on Chief Executive remuneration matters and submissions to the Remuneration Authority regarding member remuneration.
Water Committee	Assists the Board in overseeing the establishment of a new regulatory role for the Commission in the water sector.

Division	Purpose
Commerce Act Division	Exercises the Commission's functions and powers under the Commerce Act 1986, including making decisions to commence proceedings under the legislation, undertaking investigations and inquiries, taking evidence and requiring information.
Consumer Division	Exercises the Commission's functions and powers under the Fair Trading Act and Credit Contracts and Consumer Finance Act, including undertaking investigations and inquiries, taking evidence and requiring information, making decisions to commence proceedings under the legislation and undertaking studies on matters affecting the interests of consumers under the Fair Trading Act.
Dairy Division	Exercises the Commission's powers and functions under the Dairy Industry Restructuring Act 2001 related to the domestic dairy sector and Fonterra.
Fibre Division	Exercises the Commission's powers and functions under the Telecommunications Act, including to determine, review and amend telecommunications input methodologies and determinations in relation to information disclosure and price-quality regulation and respond to proceedings that challenge the Commission's decisions in relation to these areas.
Fuel Division	Exercises all the functions and powers of the Commission relating to the Fuel Industry Act and any regulations made under the Act.
Part 4 Division	Exercises the Commission's powers and responsibilities under Part 4 of the Commerce Act to regulate electricity suppliers, gas pipeline services and specified airport services.

Division	Purpose
Merger clearance or authorisation divisions	For each merger clearance or authorisation filed with the Commission, a division is formed to exercise the functions and powers of the Commission under the Commerce Act in relation to that matter. This includes any application for clearance or authorisation or any appeal resulting from a Commission decision to grant or decline clearance or authorisation.
Personal Banking Market Study Division	Exercises the powers of the Commission in relation to any reference from the Minister of Commerce and Consumer Affairs of a competition study under the Commerce Act into personal banking services, including any matters arising from or relating to the personal banking market study, with the exception of enforcement action such as investigations and proceedings.
Retail Payment System Division	Exercises the Commission’s powers and functions under the Retail Payment System Act.
Telecommunications Division	Exercises the Commission’s functions and powers under the Telecommunications Act, including determinations in respect of designated multi-network services, pricing review determinations, liability allocation determinations, telecommunications service obligations cost calculation determinations and investigations about any proposed alterations to the legislation.

Board attendance

Board attendance and governance committee attendance from 1 July 2022 to 30 June 2023.

	Number of Board meetings attended	Number of Audit and Risk Committee meetings attended	Number of Enforcement Practices Committee meetings attended
Dr John Small (Chair)	●●●●●●●●●	●●●●	●○○
Anna Rawlings (Chair)	●●●●○		●●
Sue Begg (Deputy Chair)	●●●●●●●●○		
Tristan Gilbertson	●●●●●●●●●		
Dr Derek Johnston	●●●●●●●●○	●●	
Elisabeth Welson	●●●●●●●●		●●●
Bryan Chapple[24]	●		
Vhari McWha[25]	○		●●●

In the 2022/23 year, nine Board meetings, four Audit and Risk Committee meetings and three Enforcement Practices Committee meetings were held.

● Meetings attended ○ Meetings not present

24 Bryan was made a Commissioner and full Board member on 5 June 2023.
25 Vhari was made a Commissioner and full Board member on 5 June 2023.

New Zealand member and committee member remuneration disclosures

The information below relates to the remuneration and disclosures of New Zealand members and associate members of the Commission.

	2022/23 Actual $000	2021/22 Actual $000
J Small	554	363
A Rawlings	327	628
S Begg	340	431
T Gilbertson	480	457
E Welson	289	365
D Johnston	328	364
J Liava'a	221	218
V McWha	360	366
N Strong	277	–
B Chapple	280	–
L Lovell	19	–
R Tau[26]	–	–
J Crawford[27]	–	123
Total members' remuneration	**3,476**	**3,315**

The Chair (Dr John Small) and the Telecommunications Commissioner (Tristan Gilbertson) 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.

26 Rakihia Tau commenced his term as an associate member on 26 June 2023.
27 John Crawford ended his term as an associate member on 22 December 2021.

All other Commissioners are paid for service on a daily rate set by the Remuneration Authority as follows:

Commissioners' and Associates Commissioners' daily rates

Applied from 1 July 2022 onwards.

	2022/23 Actual $	2021/22 Actual $
Deputy Chair	1,950	1,936
Commissioners and Associate Commissioners	1,680	1,630

Commissioners' and Associate Commissioners' additional remuneration

Most Commissioners and Associate Commissioners are entitled to additional remuneration 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. For 2022/23, remuneration for the Deputy Chair is capped at $437,000 a year, and remuneration for Commissioners and Associate Commissioners is capped at $367,500 a year. The Chair and Telecommunications Commissioner are salaried appointments and receive annual leave and sick leave entitlements in addition to their salary. The Chair and Telecommunications Commissioner are not entitled to additional pay for additional hours worked.

Other payments in respect of Commissioners and Associate Commissioners

The Commission paid $3,412 to an Audit and Risk Committee member appointed by the Board who is not a Board member during the year (2022: $7,500).

In accordance with the protections set out in the Commerce Act 1986 and Crown Entities Act 2004, the Commission indemnifies Commissioners and Associate Commissioners for certain acts or inactions when carrying out their Commission duties in good faith.

No Commissioners or Associate Commissioners received compensation in relation to cessation (2022: nil).

Tō mātou Rōpū Kaiarataki
Meet our Senior Leadership Team

Adrienne Meikle
Chief Executive Officer (on secondment)

Adrienne Meikle joined the Commission in May 2018 from the Ministry of Business, Innovation and Employment (MBIE), where she was the Deputy Chief Executive, Corporate, Governance and Information group. Adrienne has held senior management roles in the Market Services and Dispute Resolution areas in MBIE, Acting Deputy Secretary, Tourism, Events and Consumer Affairs, Director of Legal in the Ministry of Economic Development, Chief Legal Adviser in the New Zealand Food Safety Authority and Parliamentary Counsel. She has also worked for the Department of Corrections and the Ministry of Education. She has BA, LLB and LLM (Hons) degrees. In May 2023, Adrienne joined Land Information New Zealand on a nine-month secondment.

Vanessa Horne
Chief Executive Officer (acting)

From May 2023, Vanessa Horne stepped in as Chief Executive Officer from her role as General Manager of the Commission's Fair Trading Branch. Her regulatory and legal background spans several regulatory systems, including overseas investment, intellectual property, health and safety, emergency management, occupational regulation, rural broadband and energy safety. She has a Master of Public Policy from Massey University and a law degree from the University of Otago.

PJ Devonshire
Pou Ārahi

PJ Devonshire (Ngāti Kahungunu ki Wairarapa, Rangitāne o Wairarapa) joined the Commission in August 2021. He has held roles as Pou Ārahi with the Ministry of Social Development and General Manager of his iwi Ngāti Kahungunu ki Wairarapa and represented his iwi on the National Iwi Chairs Forum. In 2021/22, he held dual Pou Ārahi roles with the Commission and the Office of the Privacy Commissioner. He is a Board member of Ngāti Kahungunu ki Wairarapa Charitable Trust and is an honorary member of the Māori Women's Welfare League.

Andrew Riseley
General Manager,
Legal Services

Andrew Risely joined the Commission in January 2017 after 20 years in competition law and economic regulation across five jurisdictions, including Singapore, the UK and Australia. Andrew has an MSc in Regulation from the London School of Economics and an LLB (Hons) and BEc (Hons) from Monash University.

Andy Burgess
General Manager,
Infrastructure Regulation

Andy Burgess joined the Commission in December 2019 after 25 years in economic regulation in the UK and internationally. Andy joined the Commission from Ofgem in the UK where he led part of the Energy System Transition team. He was also the UK representative on the Board of the European Energy Agency (ACER) and the Council of European Energy Regulators (CEER) and acted as the Vice-Chair of CEER's Distribution Systems Working Group.

Antonia Horrocks
General Manager,
Competition

Antonia Horrocks joined the Commission in August 2016 after four years at the UK Competition and Markets Authority, bringing experience as an anti-trust lawyer in the private and government sectors. She started her career in Aotearoa New Zealand and has a BA (Hons) in English, an LLB (Hons) and a Postgraduate Diploma in EU Competition Law.

Geoff Williamson
General Manager,
Organisation Performance

Geoff Williamson joined the Commission in July 2011 and was previously Director Corporate Services at the Tertiary Education Commission and Chief Financial Officer at the National Library of New Zealand and had roles at Deloitte. Geoff is a chartered accountant with a BCA from Victoria University of Wellington and an Executive Master of Public Administration through the Australia and New Zealand School of Government.

Kirsten Mannix
General Manager,
Fair Trading (acting)

Kirsten joined the Commission in October 2012 after returning to Wellington from the UK where she worked in-house legal roles at GlaxoSmithKline and Sainsbury's Supermarkets. Kirsten is acting General Manager of the Commission's Fair Trading Branch until the end of January 2024. In her substantive role, Kirsten is Fair Trading Investigations and Compliance Manager. She has law and commerce degrees from the University of Canterbury.

Louise Unger
General Manager, Credit

Louise Unger joined the Commission in April 2021 from international firm Lawyers On Demand, where she specialised in risk and compliance. She has expertise in providing legal, risk and compliance services to a range of Aotearoa New Zealand and international organisations, including banks, telecommunications and electricity companies. She led the Bank of New Zealand's Retail legal team, which included advising on the Credit Contracts and Consumer Finance Act. Louise has an LLB (Hons) and BCom from the University of Canterbury.

Nick Russ
General Manager,
Market Regulation

Nick Russ manages the Commission's Market Regulation Branch, which is responsible for the Commission's regulatory functions across a number of sectors, including telecommunications, fuel, dairy and the retail payment system. Nick joined the Commission in November 2010 and was General Manager Economic Regulation for the period 2016–2022. Before joining the Commission, Nick spent a number of years working for energy regulators in the UK (Ofgem) and Australia (Australian Energy Regulator). Nick has a degree in electrical engineering and is a chartered engineer.

Raj Krishnan
General Manager,
Strategy, Governance and Engagement

Raj Krishnan joined the Commission in 2021 from the Department of Internal Affairs where he held a number of leadership positions, including General Manager Policy and General Manager Regulatory Services. He brings extensive leadership experience in policy and regulation and a strong background in governance and stakeholder relations. Raj has previously held roles with the Department of the Prime Minister and Cabinet, Department of Corrections and the Accident Compensation Corporation.
He has a BA in Social Policy and Education and a Master of Public Policy from Victoria University of Wellington.


COMMERCE
COMMISSION
NEW ZEALAND
Te Komihana Tauhokohoko

05

Te ora me te kaha o tō mātou whakahaere
Our organisation's health and capability

Key topics:

- Profile of our people at 30 June 2023
- Evaluating our capability and health
- Disclosure of employee remuneration
- Our environmental sustainability progress

Ō mātou tāngata i te 30 o Hune 2023
Snapshot of our people on 30 June 2023

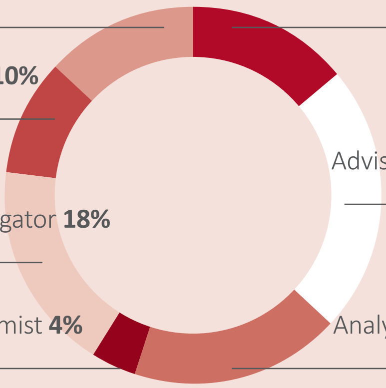
Total FTE Organisation-wide 2023

428

Number of employees (FTE)

44%	**Male**
54%	**Female**
2%	**Gender not stated**

Occupation 2023



Management **13%**
Administrative support **14%**
Legal **10%**
Adviser **23%**
Investigator **18%**
Economist **4%**
Analyst **18%**

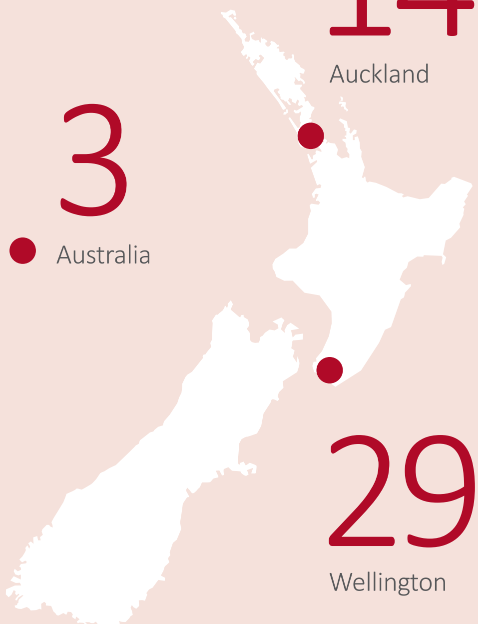
The average tenure

The average number of years of experience of our employees (with the Commission)

3.8

12% **Employee turnover**

Total staff (headcount) by geographical location



146
Auckland

3
Australia

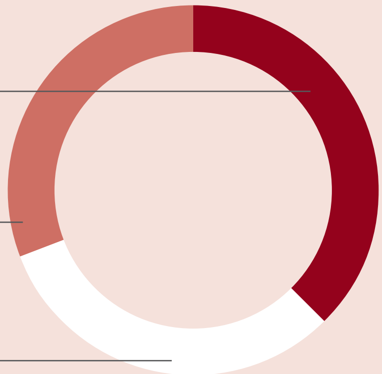
297
Wellington

Percentage of employees with ongoing flexible working arrangements

2021 **60%**

2022 **51%**

2023 **49%**



Age groups 2023

61+ **6%**

51–60 **15%**

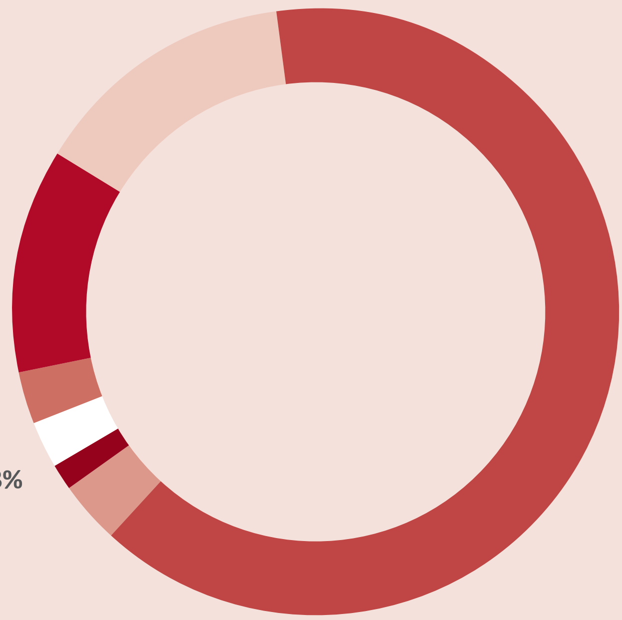
41–50 **24%**

31–40 **32%**

20–30 **23%**

Ethnicity profile of employees 2023

- NZ European/Pākehā **64.1%**
- Other European **14.1%**
- Asian **12.0%**
- Māori **2.7%**
- Pacific Peoples **2.5%**
- Middle Eastern, Latin American and African **1.3%**
- Other/not stated **3.3%**



Tō Mātou Rautaki Tāngata
Our People Strategy

Our people remain central to achieving our vision and strategy. We foster a connected and collaborative environment that is inclusive, diverse, safe and healthy, with excellent people leadership and management to attract, develop and retain our people.

This is reflected in our People Strategy, which includes six goals that guide our people focus, supported by our enduring organisational values.

1 Connected and collaborative

We nurture a connected and collaborative environment that boosts knowledge sharing and innovative thinking, leading to engaged teams and better business outcomes.

2 Inclusive, diverse, safe and healthy

We build and maintain an inclusive, diverse and healthy environments where our people are safe, feel valued, supported, respected and can flourish.

3 Excellent people leadership and management

We have excellent people leadership and management capability to encourage high performance and foster a great workplace and culture, enabling our people to excel.

4 Develop

We develop our people to be the best they can and to deliver outstanding performance.

5 Attract

We attract and recruit excellent and diverse people with the right skills and capability, for now and in the future, who are committed to our vision and values.

6 Retain

We retain our people by valuing and rewarding their contribution and maintaining a great workplace where they can thrive.

Excellence | Integrity | Accountability | Respect | Good judgement

To ensure a dynamic and responsive approach in building on our success, we regularly update the focus areas that sit under each of these goals.

Our values shape our culture by setting out what is important to us and defining how we work with and behave towards each other and the communities that we serve. A review of our values is under way and is expected to be updated in 2024. This will ensure that our values continue to reflect our evolving organisational culture, which includes embedding te ao Māori into our mahi and embracing the development of Māori cultural capability within the Commission. This will make sure we are well aligned with the vision of our Rautaki Māori (Māori Strategy).

Kia tū hei kaitukumahi pai
Being a good employer

Our People Strategy incorporates the elements of being a good employer as set out under section 118 of the Crown Entities Act 2004 and arranged under the seven elements established by the New Zealand Human Rights Commission. The table below provides examples of our initiatives during the 2022/23 year. Further examples are referenced under relevant organisation capability and health sections in this report.

Initiatives	
Leadership, accountability and culture	Management and leadership development continues to be an important priority. Our leaders have access to programmes that encourage them to broaden and expand their management and leadership toolkit in an increasingly fast-paced and challenging work environment. The programmes provide a blend of in-person and virtual delivery modes using theory, research, leading practice and participant experience. These are designed to provide our people with the skills and knowledge to become a confident and effective people leader in the New Zealand public sector. In 2022/23, we ran a new people leader programme with 14 participants, including several participants from other public sector agencies. A quarterly People Leaders' Forum provides our leaders with the opportunity to work collaboratively and share knowledge to support their leadership practice.
Recruitment, selection and induction	To support the peak recruitment resulting from our new regulatory regimes, we have had to increase capacity within our in-house talent acquisition team. We continue to embed our online recruitment system, including integrating our assessment and pre-employment check systems. We also focused on establishing talent pools to ensure we attract a more diverse workforce, in particular Māori and Pacific Peoples. We use social media to profile our talent and demonstrate the Commission's value. We continue to be guided by Kia Toipoto and work closely with our Te Ohu Māori team to ensure we have a robust process that focuses on embracing diversity and employment equity. Our internship partnerships have grown to include Tupu Toa, Tupu Tai, Summer of Tech and our internal economic programme. Employer Work Visa Accreditation from Immigration New Zealand has enabled us to fill critical roles through international recruitment. We have recently joined the new AoG contract for talent acquisition services to support permanent, fixed-term, temporary and contract assignments.
Employee development, promotion and exit	Our new operating model and structure reflecting the Commission's growing duties and responsibilities has provided further opportunities for internal career progression across functions. We promote a culture of learning and continued development at all levels supported by our growth and development framework. The framework provides a structured approach to building key capabilities, behavioural competencies and supporting career development and progression. These include project work, shadowing and acting opportunities, secondments, mentoring and coaching, online learning and in-person learning programmes. We continuously identify relevant focus areas to further enhance our overall employee experience by reporting on and analysing data about employee turnover and feedback from exit interviews.

Initiatives

Flexibility and work design	We are committed to providing an excellent work environment, which includes supporting flexible work practices, where employees can excel and fully contribute their talents while maintaining a healthy work-life-family balance. Our approach allows for vital in-person connectivity, collaboration and cohesion between individual employees, both within and across teams, as well as the flexibility to work outside the office. All roles are treated as flexible unless there is a genuine business reason for a role not to be. Every role should be suitable for some form of flexibility, but not every type of flexibility will work for every role. We encourage flexible working requests that balance the needs of the Commission, the individual role, the employee and the team. Flexible working consists of both temporary and ongoing arrangements covering flexi-time, flexi-leave, flexi-place and flexi-role/career. We use technology applications to support flexible working arrangements. Our people successfully mix working in the office and remotely with around 50% of our employees having agreed on ongoing flexible working arrangements. Ongoing monitoring allows for refinements and providing additional support to our staff and people leaders.
Remuneration, recognition and conditions	We continue to have regard to the Government Workforce Policy Statement on the Government's expectations for employment relations in the public sector. Work continues to implement the Kia Toipoto framework and action plan for 2021–24. This includes the ongoing development and embedding of initiatives to improve ethnic and gender representation in our workforce and leadership; to achieve equitable pay outcomes, career pathways and opportunities to develop; and to protect against bias and discrimination in our policies and practices.
Harassment and bullying prevention	We have zero tolerance of harassment, bullying and discrimination. Our organisational values; code of conduct; anti-harassment, bullying and discrimination policy; equality, diversity and inclusion policy; and updated protected disclosures policy all detail expected behaviours and joint responsibilities. This includes details on how employees can safely raise matters of concern. Reminders about the content of our key policies are reinforced through required annual declarations by staff acknowledging their compliance with these Commission policies.
Safe and healthy work environment	Our health, safety and wellness policy, manual and framework ensure that we maintain a healthy and safe work environment. We comply with workplace health and safety laws and have safe operating procedures for several potential risks specific to our business. Our annual health and safety plan and regular reporting schedule support a focus on continuous improvement.

Ō mātou tāngata i te 30 o Hune 2023
Profile of our people on 30 June 2023

The mahi of the Commission is now much broader with the evolution of our roles and responsibilities, and this has seen us grow into a medium-sized organisation. We now have around 446 staff in total and we expect that number to grow further as our responsibilities continue to increase.

We maintain good balance of male and female employees, whose average length of service remains steady against a backdrop of a manageable level of employee turnover and growth in employee headcount.

Organisation-wide	**2021**	**2022**	**2023**
Number of employees (FTE)	273	316	428
Male	49%	47%	44%
Female	51%	52%	54%
Gender not stated	–	1%	2%
Employee turnover	13.4%	14.9%	12.7%
The average number of years of experience of our employees with the Commission	4.8	4.6	3.8

The occupation profile of the Commission reflects our core regulatory functions and the supporting corporate functions.

Occupation	**2021**	**2022**	**2023**
Administrative support	14%	13%	14%
Adviser	20%	23%	23%
Analyst	17%	14%	18%
Economist	6%	6%	4%
Investigator	18%	18%	18%
Legal	13%	10%	10%
Management	11%	15%	13%

Te Arotake i kaha me te hauora
Evaluating our capability and health

We constantly monitor our organisation's performance and evaluate our capability and capacity through specific initiatives as set out in our Statement of Intent.

Employee engagement

Our people consider that Te Komihana Tauhokohoko provides a positive and inclusive workplace. We seek employee feedback through our quarterly workplace survey. On average, over 80% of our employees participate. We measure engagement as well as overall employee experience by asking questions about wellbeing, diversity and inclusion, culture and change. The lift in overall engagement and in specific areas of employee experience has been significant. A base measurement of 7.4 (using a 0–10 scale) in 2020 has moved to 8.0 in 2023. Our overall engagement score is in the top 25% of government organisations globally that use the same workplace survey platform.

In addition to the engagement score of 8.0 in May 2023, we have seen significant upward shifts, including in flexible work practices, career growth, management support, freedom of opinions, and recognition and reward. All these areas have had a specific focus with initiatives implemented to address feedback and enhance our employee experience.

Leaders have access to live dashboards and are supported to share their team results and identify actions to further improve our workplace culture.

Health, safety and wellbeing of our people

2022/23 health and safety statistics

16	people trained in first aid	7	new health and safety representatives elected and trained
11	people received evacuation chair training	249	people received in-person health and safety induction training
2	minor injuries reported and recorded		

A key focus remains on managing and improving the health, safety and wellbeing of our people. We also strive to address any issues that may impact business continuity. Our ongoing health, safety and wellbeing activities include electing, supporting and training health and safety representatives and ensuring our Health and Safety Committee is equipped to reduce work-related harm. We assist managers with any notifiable events, accidents and/or incidents and near-miss investigations. We record incidents and provide health and safety reporting information to the Chief Executive and the Board. This extends to health and safety considerations while working remotely.

We provide a range of services to support the health and wellbeing of our people. These include online resources, e-learning modules and education workshops, on-site health checks, flu vaccinations, yoga and mindfulness courses. Employee Assistance Programme (EAP) services are available for staff and their immediate whānau. We regularly raise awareness and provide resources on health, safety and wellbeing. Our employee-led wellness network has high levels of participation from across the Commission.

Planning is under way for the launch of a peer-to-peer mental health support programme. The programme will train a group of employees to recognise the signs and symptoms of common mental health illnesses and support staff with access to appropriate help. The programme will also provide regular mental health educational workshops for all employees.

As part of our annual health and safety plan, we adopt recommendations from the health and safety audit, with a focus on continuous improvement. Regular reporting by the Health and Safety Committee enables us to track progress and deliver effective and timely responses to identified risks. We also report, monitor and recommend actions on sick leave levels and managing annual leave balances, workplace accidents and injuries, health and safety inductions for new workers, usage of EAP services and workstation discomfort assessments, which are referred to our occupational therapist for further action.

Driving protective security improvements

Keeping our people, information and assets safe is important to the Commission and is crucial in enabling us to meet our strategic and operational objectives. Over the last year, we continued to embed good security practices, including strengthening our security across several areas.

The Commission uses the New Zealand Government's Protective Security Requirements (PSR) as a framework to guide its security activities. We continue to enhance our capability across the four areas of the PSR framework – personnel, physical and information security along with governance.

We ensure that security measures relating to our people and places are relevant and actively managed through well-established risk assessment and management processes.

We continue to review and develop our policies and procedures to ensure we have the right protections, processes and systems in place that are easy to understand and use. We have developed educational resources to further enhance the Commission's security culture and increase staff security awareness and capability.

Regular reporting to our Senior Leadership Team and Board on security, cyber and information security, and privacy developments provides good visibility and oversight of security matters.

Diversity, equity and inclusion in our organisation

Building and maintaining an inclusive, diverse and healthy environment where our people feel safe, valued, supported and respected and can flourish are core goals of our People Strategy.

A refresh of our diversity and inclusion work programme in 2022 led to a focus on creating greater visibility of these initiatives across the Commission and a commitment to support the establishment of more employee-led networks. Our employee-led networks have grown from two (Māori employee network, and Pacific Peoples employee network) to five. New networks include wellness, diversity and inclusion and neurodiversity. Active participation in these networks has resulted in an increase in employee-led cultural events and celebrations.

Our calendar of events and awareness-raising initiatives include International Women's Day, Pacific Language Week, Te Wiki o te Reo Māori, International Day Against Homophobia, Transphobia and Biphobia, New Zealand Sign Language Week, Pink Shirt Day and Mental Health Awareness Week.

Our people can easily access a range of information on our refreshed diversity and inclusion intranet pages, and our weekly Chief Executive Pānui regularly shares information about diversity and inclusion initiatives and employee profiles.

Our Talent Acquisition and Te Ohu Māori teams are developing a comprehensive plan to increase pathways into the Commission for Māori and Pacific Peoples. This plan supports our commitment to ensuring that our workforce reflects the people that we serve. We continue to participate in Tupu Tai Pasifika and Tupu Toa internship programmes.

Our ongoing commitment to implementing the Te Kawa Mataaho | Papa Pounamu framework continues. In April 2023, we published the Commission's Kia Toipoto – Gender and ethnic pay gaps action plan 2021–2024.[28] A range of initiatives and actions are under way to ensure progress against Kia Toipoto milestones towards enhancing equality and opportunity in our workforce. This includes continuing to develop and embed initiatives to:

- improve ethnic and gender representation in our workforce and leadership
- achieve equitable pay outcomes, career pathways and opportunities
- develop and protect against bias and discrimination in policies and practices.

While the number of ethnically diverse employees has grown year-on-year, this change has been offset by the overall growth of around 35% in employee headcount, including New Zealand and Other European.

28 **https://comcom.govt.nz/__data/assets/pdf_file/0028/313696/Commerce-Commission-Kia-Toipoto-Action-Plan-2021-2024-April-2023.pdf**

Ethnicity	2021	2022	2023
African	0.7%	0.3%	0.7%
Chinese	3.4%	4.5%	4.0%
Indian	3.8%	4.0%	4.0%
Latin American	0.7%	0.6%	0.4%
Māori	2.4%	3.4%	2.7%
NZ European/Pākehā	66.8%	64.8%	64.1%
Other/not stated	2.7%	3.1%	3.3%
Other Asian	1.4%	2.0%	1.8%
Other European	17.1%	14.2%	14.1%
Pacific Peoples	0.3%	1.1%	2.5%
Prefer not to say	0.7%	0.6%	0%
South East Asian	0.3%	0.9%	2.2%
Middle Eastern	-	0.6%	0.2%

The Commission maintains a good spread across various age groups.

Age group	2021	2022	2023
20–30	23%	18%	23%
31–40	28%	33%	32%
41–50	29%	25%	24%
51–60	14%	16%	15%
61+	6%	7%	6%

We have an updated disability register and aim to ensure that our workplace environment caters to people of all abilities, with assistance available to employees as required.

Gender pay gap

The Commission continues to work on closing the gender pay gap and actively growing diversity.

Including our Chief Executive, 44% of our Senior Leadership Team are female.

Proportion of female and male categorised by seniority

Senior managers	Tier 1	Tier 2	Tier 3
Female	100%	37.5%	51.2%
Male	-	62.5%	48.8%

Gap	2019	2020	2021	2022	2023
Median pay difference between male and female employees	22.6%	18.5%	16.5%	14.9%	14.4%
Average pay difference between male and female employees	14.8%	13.6%	10.8%	11.6%	12.4%

Our median gender pay gap has tracked down over the past five years. However, while showing a similar trend, there was a slight increase in the average gender pay gap in 2022 and 2023. Our gender pay gap is primarily caused by having a higher number of male staff in highly paid technical specialist roles, particularly in our regulated industries work. In line with our Kia Toipoto Pay Gap Action Plan and to overcome this occupational segregation, we continue to focus on the pipeline for recruitment of women into specialist roles, supported by our approach to flexible working. Further analysis is scheduled to determine gender equity across like-for-like roles. A range of other actions are under way to ensure progress against Kia Toipoto milestones towards enhancing equality and opportunity in our workforce.

Disclosure statements

Disclosure of cessation payments

During the year ended 30 June 2023, compensation or other benefits paid to two employees in relation to cessation totalled $20,413.37 (2022: $121,750).

Disclosure of employee remuneration paid

Employee remuneration paid over $100,000 during the year ended 30 June 2023, grouped into $10,000 bands.

	2022/23 Actual	2021/22 Actual
$100,000 – $110,000	39	22
$110,001 – $120,000	58	25
$120,001 – $130,000	37	23
$130,001 – $140,000	28	22
$140,001 – $150,000	47	21
$150,001 – $160,000	43	23
$160,001 – $170,000	20	6
$170,001 – $180,000	21	12
$180,001 – $190,000	18	9
$190,001 – $200,000	14	8
$200,001 – $210,000	8	2
$210,001 – $220,000	10	3
$220,001 – $230,000	2	1
$230,001 – $240,000	0	1
$240,001 – $250,000	1	0
$250,001 – $260,000	1	1
$260,001 – $270,000	0	4
$270,001 – $280,000	3	0
$280,001 – $290,000	2	1
$290,001 – $300,000	4	2
$350,001 – $360,000	1	0
$360,001 – $370,000	0	0
$390,001 – $400,000	0	1

Tō mātou oranga taiao, mauroa hoki
Our environmental sustainability progress

We are committed to minimising our impact on the environment and improving our climate reporting and accountability. In 2021, we increased the scope of our reporting by identifying new activities across the organisation that we could measure and track our carbon emissions, either using available data from our suppliers or calculating estimates using the Ministry for the Environment's guidance on emission factors.[29] In addition to reporting on carbon emissions from air travel, office electricity, and paper usage, from 2022 onwards, we have also begun reporting on emissions from passenger vehicles, domestic accommodation, office cleaning and freight transport.

29 https://environment.govt.nz/assets/publications/Measuring-Emissions-Guidance_DetailedGuide_2023_ME1764.pdf

Office electricity emissions decreased by 38% in 2023 compared to 2022. The emission factor per unit used in 2023 according to the Ministry for the Environment guidance decreased to 0.074 kWh (2022: 0.113 kWh), driving this decrease. The Commission also consumed 28,000 fewer kilowatt hours.

Staff working from home by choice on a regular basis has resulted in electricity savings and reduced carbon emissions, for instance, through reduced usage of computer monitors, printers and meeting room equipment.[30]

30 We acknowledge that, while there have been electricity savings in our offices because of staff working from home, the positive impacts of this will likely be offset by staff increasing their home electricity use, overall having a net neutral impact on the environment.

Air travel emissions increased by 134% in 2023 compared to 2022 due to staff travelling 200,000 more kilometres.

This was a result of the border reopening, international conference attendance and an increase in staff numbers reflecting the Commission's increased responsibilities.

Accommodation emissions were 313% higher in 2023 compared to 2022 due to staff staying 908 more nights because of more travel.

Passenger vehicle emissions increased by 168% in 2023 compared to 2022 due to staff travelling 31,000 more kilometres.

Emissions from passenger vehicles include rental cars, taxis and rideshare apps.

Despite lower usage on a per FTE basis in 2023 (2.2 reams used per FTE) compared to 2022 (3.7 reams used per FTE), overall paper usage increased by 19% due to staff number increases. There are no emissions from paper usage as almost all the paper we purchased is carbon neutral.[31]

31 97% of all paper purchased is from certified carbon neutral copy paper ranges.

Freight transport emissions decreased by 26% in 2023 compared to 2022, and total tonne-kilometres (freight weight multiplied by distance) decreased by 5%.

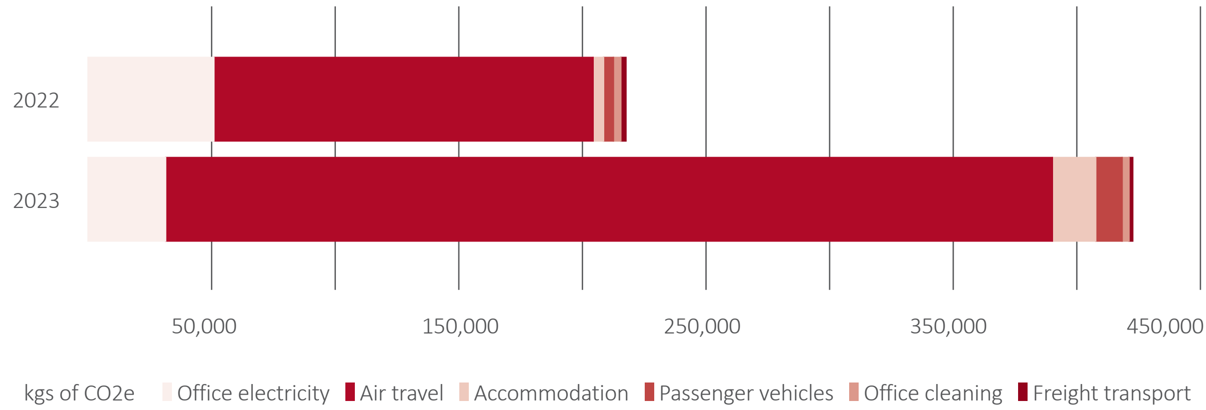
Office cleaning emissions were 2% lower in 2023 compared to 2022 due to the cleaners utilising more efficient means of transportation, such as ridesharing to job locations.

Emissions from office cleaning include travel, transport and waste.[32]

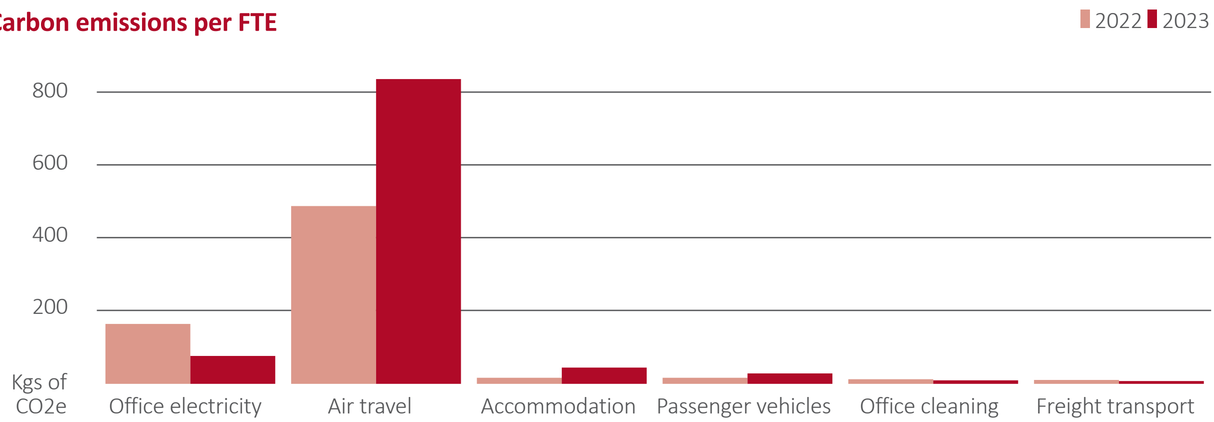
32 Cleaning emissions reporting is provided to us from our Wellington cleaning supplier and covers the year from April to March, which varies by a quarter from our financial year from July to June. Note that only Wellington office emissions are reported as no data is available from our Auckland supplier.

Carbon emissions 2023 vs 2022

Carbon emissions by activity



Carbon emissions per FTE



Our staff numbers increased from 316 FTEs in 2022 to 430 FTEs in 2023.

	2023		2022		
Source of carbon emissions	**Total emissions** *kgs of CO2e*	**Emissions per FTE** *kgs of CO2e*	**Total emissions** *kgs of CO2e*	**Emissions per FTE** *kgs of CO2e*	**Change**
Office electricity	31,396	73	50,928	161	▽
Air travel	358,719	834	153,389	485	▲
Accommodation	17,527	41	4,239	13	▲
Passenger vehicles	10,691	25	3,987	13	▲
Office cleaning	2,790	6	2,840	9	▽
Freight transport	1,527	4	2,075	7	▽
Total	**422,649**	**983**	**217,459**	**688**	

In 2023/24, we will start work to develop new sustainability targets and performance measures, which will include setting gross emissions reduction targets for 2025 and 2030.

This will drive our climate accountability and reduce our carbon footprint, which will help us respond to changing expectations and government policy settings.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06

Ā mātou tutukitanga
Our performance

Key topics:

Presentation of the performance information

2022/23 summary of output class measure and strategic objective measure results

Performance disclosures, results and financial information relating to our output classes

Ā mātou tutukitanga
Our performance

Public Benefit Entity Financial Reporting Standard (PBE FRS) 48 Service Performance Reporting Standard

The service performance information contained in this section has been prepared according to the standards and requirements set out in PBE FRS 48.

This standard came into effect from 1 January 2022 and applies to this Annual Report. We are required to provide relevant information (disclosures) about how we selected, measured, grouped and presented our performance information, including any significant changes from the prior year.

Judgements on the selection, measurement, grouping and presentation of performance information

This section reports on our performance against the output measures and financial information found in our Statement of Performance Expectations 2022/23 and the Estimates of Appropriations and Supplementary Estimates of Appropriations 2022/23.[33]

In selecting, measuring, grouping and presenting our performance information, we considered the required characteristics of relevance, faithful representation, understandability, timeliness, comparability and verifiability. We consider the information provided and the related disclosures we have presented are the most appropriate and meaningful to users.

As outlined earlier on page 8, we received additional funding to establish the grocery regime and to prepare for water reform regulation. Due to timing of the new legislation for water and the grocery regimes, there are no Statement of Intent measures we are reporting against. These activities support our strategic direction.

Presentation of information

We have presented our service performance information by output class area (Table E) to show how these output measure results contribute (directly or indirectly) to the strategic performance indicators outlined in our Statement of Intent 2020–2024 (SOI). The information covers what the output class intends to achieve, the purpose of the measures, relevant disclosures about any changes to the measures, financial information related to each appropriation and results for each strategic performance indicator.

The sections 'How we are funded', 'Funding to address regulatory challenges', 'Working to make a difference' and this section represent the Commission's service performance prepared according to PBE FRS48.

Work is underway to review and align our output measures (where necessary) to our new strategic outcomes framework. This will help us strengthen our performance framework, monitor our effectiveness, and articulate a clearer line of sight to our strategic direction.

33 These are included in Vote Business, Science and Innovation, which is administered by the Ministry of Business, Innovation and Employment, our monitoring agency.

Table E: Contribution of each output class area to strategic performance indicators and objectives

Output class area	Appropriation	Contributes to the following SOI indicator	SOI objective
Competition, market studies and consumer	Competition studies Enforcement of competition regulation	State of competition in New Zealand markets (two measures)	Strategic objective 1: Markets work well
Competition, market studies and consumer market studies	Enforcement of competition regulation Enforcement of consumer regulation Competition studies	Businesses understand their responsibilities under competition and consumer laws (Survey result) Businesses are confident other businesses are complying with competition and consumer laws (Survey result)	Strategic objective 2: Businesses are confident market participants
Competition, market studies and consumer	Enforcement of competition regulation Enforcement of consumer regulation Competition studies	Consumers are confident that competition and consumer laws are being appropriately enforced (Consumer survey result) Consumers are confident when accessing consumer credit (Consumer survey result)	Strategic objective 2: Consumers are confident market participants
Economic regulation: Telecommunications Electricity lines services Gas pipeline services	Regulation of telecommunications services Regulation of electricity lines services Regulation of gas pipeline services	Consumers are confident that regulated suppliers are providing services at an appropriate price and quality (Electricity Authority's biennial consumer survey result) (Telecommunications survey and annual monitoring of performance result)	Strategic objective 2: Consumers and businesses are confident market participants
Economic regulation: Telecommunications Electricity lines services Gas pipeline services Specified airport services	Regulation of electricity lines services Regulation of gas pipeline services Regulation of telecommunications services Airports	Regulated suppliers provide strong and sustainable infrastructure that benefits New Zealanders (Analysis of energy sector performance – electricity and gas networks) (Annual telecommunications monitoring) (Analysis of airport sector performance) Regulated suppliers are confident to invest in regulated assets (Analyses of investment by the energy and aviation sectors and fibre network investment) (three indicators that contribute to an overall measure)	Strategic objective 1: Markets work well

2022/23 summary output class measure results

We achieved 31 of our 38 output measures (82%).

Achieved	Not achieved	On track	No result
31	2**	2++	3***
measures achieved	measures	measures	measures

** This relates to one competition and one consumer output measure.
++ This relates to one input methodologies and one water regulation output measure.
*** This relates to one competition, one gas pipeline services and one specified airport services output measure.

2022/23 summary strategic objective measure results

The following is a summary of our progress against our 15 strategic objective performance indicators.

10	2+	3***
Achieved	Not achieved	No results available

+ Refer to pages 101 and 102.
*** Refer to pages 97 and 110.

Tirohanga whakataetae, mākete hoki, kiritaki
Competition, market studies and consumer

Contextual information

This output class area relates to the output measures and financial budgeting information relating to our role under the:

- Commerce Act 1986 (Parts 2, 3 and 5)
- Credit Contracts and Consumer Finance Act 2003
- Fair Trading Act 1986.

Appropriation funding

The table below shows the funding made available by the Crown through the Estimates of Appropriations and Supplementary Estimates of Appropriations compared to that recognised by the Commission in the year for our competition, consumer and competition studies appropriations.

2022/23 funding	Estimates $000	Supplementary Estimates $000	Actual $000	Actual vs Supplementary Estimates $000
Vote Business, Science and Innovation: Enforcement of General Market Regulation MCA				
Enforcement of Competition Regulation **Revenue – Crown**	11,359	11,879	11,879	–
Enforcement of Consumer Regulation **Revenue – Crown**	19,643	19,123	19,123	–
Total	**31,002**	**31,002**	**31,002**	
Vote Business, Science and Innovation: Competition Studies				
Revenue – Crown	2,672	3,119	2,569	(550)

Whakataetae
Competition

Contextual information

This output class is intended to achieve the prevention, identification, investigation and remediation of market behaviour that is anti-competitive. It also includes administration of clearance and authorisation regimes under the Commerce Act 1986. It includes our work with other government agencies in policy development and regulatory initiatives, understanding the impact on markets and educating industry about its obligations under competition law.

The purpose of these measures is to capture the regulatory decisions completed during the year relating to mergers, cartel work and competition investigations under the Commerce Act 1986. These measures are the tools we use to ensure appropriate review and sign-off for those investigations where our more intrusive powers are recommended.

A key part of the quality assurance (incorporating both quality and timeliness) for this measure includes prioritisation criteria for case selection (in accordance with our Enforcement Response Guidelines, which are publicly available), ongoing involvement by our legal team and a review process before a decision is made to take enforcement action by the Commerce Act Division under delegated authority.

Competition output measures	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual
Percentage of merger clearance decisions made within 40 working days when no statement of issues is published	50%	75%	86%	75%	75%
Commentary: We decided nine clearances applications in 2022/23 featuring local and international transactions covering a broad range of industries. Of these applications, four were cleared without a statement of issues being published. The low proportion in this category, together with specific issues relating to the Cyclone Gabrielle flood effect on the ability of a party to respond in one case, and late engagement from a key third party submitter in another, meant the target was not met.					
Average number of working days from date of decision to date of publication of reasons for declined merger clearance applications	There were no declined clearances	10 days	There were no declined clearances	10 days	There were no declined clearances
Methodology: This measure only applies to merger clearance applications that are made directly to the Commission and excludes those where an application was not made to us and where we made the decision to investigate.					
Number of Commerce Act 1986 matters completed	20	5 – 20	17	5 – 20	8
Commentary: This included 10 cartel matters, nine competition matters, and one merger matter.					

Competition output measures	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual
Percentage of competition investigations decided within 18 months of the investigation being opened	95%	75%	83%	75%	78%
Methodology: The type of information we receive (such as complaints, leniency applications relating to cartels, intelligence, media, information received from other agencies or through other the work the Commission is undertaking) may lead to an investigation. **Commentary:** During the year, 20 investigations were decided.					
Percentage of investigations involving a court action, statutory undertaking or negotiated settlement response meeting our internal process quality standards	100%	100%	100%	100%	100%
Methodology: Decisions to take high-level enforcement action are made by the Commerce Act Division.					

Our competition work is funded through the multi-category appropriation Vote Business, Science and Innovation: Enforcement of General Market Regulation – Enforcement of Competition Regulation.

Competition	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Operating revenue					
Revenue – Crown	11,879	11,879	13,289	13,289	10,493
Other revenue	351	213	295	175	185
Total operating revenue	12,230	12,092	13,584	13,464	10,678
Total operating expense	12,265	12,092	12,316	13,464	10,295
SURPLUS/(DEFICIT)	(35)	–	1,268	–	383

STRATEGIC INDICATOR

State of competition in New Zealand markets

Contextual information

The purpose of this measure is to provide an assessment of our regulatory contribution to the state of competition in New Zealand and whether markets are working well.

While many of our outputs contribute to deterring anti-competitive behaviour and the market studies we undertake help build a picture of factors affecting competition in New Zealand, there is limited quantitative evidence about New Zealand's state of competition.

This is the second year we are unable to report a result due to the information no longer being reported by the Word Economic Forum. We are exploring options for how best to measure our regulatory contribution to the state of competition in New Zealand.

Indicators	2022/23 result	Target	2021/22 result	Baseline
World Economic Forum Global Competitiveness Report New Zealand's extent of market dominance score	This information was not published in 2022/23	Maintain or increase	This information was not published in 2021/22	52.7 points out of 100 points (in 2019)
World Economic Forum Global Competitiveness Report New Zealand's competition in services score	This information was not published in 2022/23	Maintain or increase	This information was not published in 2021/22	73.1 points out of 100 points (in 2019)

Tirohanga mākete
Market studies (also known as competition studies)

Contextual information

This output class is intended to achieve improved market performance and outcomes through detailed research into a particular market or markets where there are concerns about competition.

As part of our functions and powers, our role is to examine and understand the factors that affect whether competition is working well in a particular market. We are funded to undertake detailed research into markets where there is evidence that some markets are not performing as well as expected.

The Minister of Commerce and Consumer Affairs or the Commission can initiate a market study by publishing a notice about the study[34] in the Gazette specifying the study's terms of reference and a date when the final report is due. We will start our fourth market study in the 2023/24 financial year, which will focus on personal banking services.

Market studies output measure	2022/23 Actual	Target	2021/22 Actual	2020/21 Actual
All competition studies undertaken are completed within agreed timeframes	Achieved	Achieved	Achieved	Achieved
Commentary: We completed one market study (the residential building supplies market study), which was published in December 2022. Refer to page 40 for more information.				

Our market studies work is funded through Vote Business, Science and Innovation: Competition Studies.

Market studies	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Operating revenue					
Revenue – Crown	2,569	3,022	2,686	3,330	2,580
Other revenue	70	12	31	17	26
Total operating revenue	2,639	3,036	2,717	3,347	2,606
Total operating expense	2,639	3,036	2,717	3,347	2,606
SURPLUS/(DEFICIT)	–	–	–	–	–

Market studies output class expenditure was lower than budget due to a longer than anticipated gap between the completion of the residential building supplies market study and the start of personal banking services market study.

34 Refer to the Commission's Market Studies Guidelines: **https://comcom.govt.nz/__data/assets/pdf_file/0029/228476/Market-studies-guidelines.pdf**

Kiritaki
Consumer (including fair trading and credit)

Contextual information

This output class is intended to achieve the prevention, identification, investigation and remediation of market behaviour that is harmful for consumers.

We make sure that consumers are not misled when buying products and services and are protected when entering consumer loans. We also enforce the rules relating to product safety, consumer information standards and other unfair trading practices that disadvantage both consumers and other businesses.

The purpose of these measures is to capture the number of regulatory decisions completed during the year (Credit Contracts and Consumer Finance Act 2003 and Fair Trading 1986 investigations and product safety matters). These measures are the tools we use to ensure appropriate review and sign-off for those investigations where our more intrusive powers are recommended.

Two separate quality assurance processes are used to assess the internal process quality measure that applies to investigations under the Fair Trading Act 1986 and the Credit Contracts and Consumer Finance Act 2003. Because two different internal assessments are used, we have recorded the result for each measure. A key part of the quality assurance (incorporating both quality and timeliness) includes prioritisation criteria for case selection, ongoing oversight and a robust review process before a decision is made to take enforcement action by the Consumer Division under delegated authority.

In the first year of the certification regime for processing fit and proper person applications, which includes July to September of the 2022/23 financial year, we prioritised applications according to their certification due date rather than their application date to minimise the number of lenders unable to trade. When a lender triggered their certification process less than two months in advance of their certification due date and we had not yet made a certification decision past their due date, the lender was required to cease trading until a decision had been made.

Consumer output measures	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Number of Credit Contracts and Consumer Finance Act 2003 matters completed	55	At least 50	64	At least 50	54	58
Number of product safety and information standards matters completed	126	At least 75	54	At least 75	109	103
Methodology: The many matters principally concerning product safety standards or consumer information standards are decided within the relevant financial year. Each matter indicates an intervention with a trader about conduct that may breach the provisions of the Act that relate to product safety standards or consumer information standards.						
Number of Fair Trading Act 1986 matters completed	195	At least 175	192	At least 175	316	344
Methodology: Each matter completed indicates an intervention with a trader about conduct that may breach the provisions of the Act (excluding those that principally relate to product safety standards or consumer information standards).						

Consumer output measures	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Percentage of Fair Trading Act 1986 investigations decided within 12 months of the investigation being opened	97%	95%	95%	95%	97%	97%
Methodology: This is a timeliness measure that recognises the need for timely interventions in investigations while considering natural justice considerations for those being investigated.						
Percentage of Credit Contracts and Consumer Finance Act 2003 investigations decided within 18 months of the investigation being opened	95%	95%	97%	95%	98%	98%
Methodology: This measure assesses whether we efficiently investigate credit-related complaints and reach decisions in respect of those investigations in a timely way. We also conduct three-monthly, six-monthly and nine-monthly reviews (which are essentially an investigation life cycle check-in) to assess whether these investigations are moving at the right pace (based on complexity and other factors).						
Percentage of investigations involving a court action, statutory undertaking or negotiated settlement response meeting our internal process quality standards	100%	100%	100%	100%	100%	100%
Methodology: This measure assesses whether there has been appropriate review and sign-off for those Credit Contracts and Consumer Finance Act investigations where our more intrusive powers are recommended.						
Percentage of investigations involving a court action, statutory undertaking or negotiated settlement response meeting our internal process quality standards	100%	100%	100%	100%	100%	100%
Methodology: This measure assesses whether there has been appropriate review and sign-off for those Fair Trading Act investigations where our more intrusive powers are recommended.						
Fit and proper person applications processed under the Credit Contracts and Consumer Finance Act 2003 within 30 working days where all information has been received and no conditions have been imposed	58%	75%	77%	75%	New measure	–
Methodology: We prioritised applications according to their certification due date rather than their application date to minimise the number of lenders unable to trade.						

Our consumer work is funded through the multi-category appropriation Vote Business, Science and Innovation: Enforcement of General Market Regulation – Enforcement of Consumer Regulation.

Consumer (including fair trading and credit)	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Operating revenue					
Revenue – Crown	19,123	19,123	19,084	19,084	18,484
Other revenue	865	509	1,430	1,970	193
Total operating revenue	19,988	19,632	20,514	21,054	18,677
Total operating expense	20,153	19,720	19,167	20,648	18,362
SURPLUS/(DEFICIT)	(165)	(88)	1,347	406	315

Expenditure in the consumer output class was higher than budget because of greater staff resourcing required to meet higher-than-expected activity in the enforcement workstream.

STRATEGIC INDICATOR

Businesses are confident market participants – compliance with and understanding of competition and consumer laws

Contextual information

We conduct a survey every two years to understand whether our advocacy, education and enforcement work helps businesses understand their obligations under the legislation they must operate under.

The results measure the understanding New Zealand businesses have of the Consumer Guarantees Act, Fair Trading Act, Commerce Act, Credit Contracts and Consumer Finance Act and Retail Payment System Act, including their confidence that other businesses are complying.

This is the first year understanding of the obligations under the Retail Payment System Act 2022 was included in the business survey.

Indicator	Target	2022/23	2021/22	2020/21	2019/20
Businesses are confident other businesses are complying with competition and consumer laws	Maintain or increase confidence	Decreased 63% (Fair Trading Act compliance) 55% (competition law compliance)	No new result	65% (Fair Trading Act compliance) 58% (competition law compliance)	No new result
Commentary: Just over half of businesses are confident that other businesses are complying with consumer and competition law. Our new Statement of Intent 2023–2027 signals our intention to lift our performance in this area. The 2020/21 result was reported in our 2021/22 Annual Report as 54%.					
Businesses understand their responsibilities under competition and consumer laws	Maintain or increase confidence	66%	No new result	63%	No new result
Commentary: Overall, the survey results show there is an increase in understanding of each area since the last survey in 2021. Although we published guidance on the Retail Payment System Act and obligations, only 21% of businesses understand their obligations under the new retail payment system regulatory regime.					

STRATEGIC INDICATOR

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

Contextual information

The Ministry of Business, Innovation and Employment (MBIE) conducts a national survey every two years to find out what New Zealanders know about their consumer protection rights and whether they understand the Consumer Guarantees Act and Fair Trading Act compared to the Credit Contracts and Consumer Finance Act.

The survey findings contribute to MBIE's ongoing assessment of the consumer regulatory system. We continue to contribute to the result through our overarching stakeholder engagement work programme, which helps to inform our regulatory work programmes.

The most recent survey covers a calendar year rather than a financial year and was published in June 2023.

Indicator	Target	2022/23	2021/22	2020/21	2019/20
Consumers are confident when accessing consumer credit	Maintain or increase confidence	Increased 88%	No new result	80%	No new result
Consumers are confident that competition and consumer laws are being appropriately enforced	Maintain or increase confidence	Decreased 34%	No new result	37%	No new result

Source: **New Zealand Consumer Survey 2022**

Ngā ture ohaoha
Economic regulation

This section describes output measures and financial budgeting information relating to our role under the:

Telecommunications Act 2001

Commerce Act 1986 (Part 4):

- Electricity lines services
- Gas pipeline services
- Specified airport services
- Input methodologies
- Part 4 inquiries

Fuel Industry Act 2020

Retail Payment System Act 2022

Dairy Industry Restructuring Act 2001

Grocery Industry Competition Act 2023

Water Services Entities Act 2022.

Appropriation funding changes

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

Economic regulation 2022/23 funding	Estimates $000	Supplementary Estimates $000	Actual $000	Actual vs Supplementary Estimates $000
Vote Business, Science and Innovation: Regulation of Telecommunications Services 2022–2025 (MYA)				
Cumulative funding to 1 July 2022	–	–	–	–
Revenue – Crown	20,500	14,500	12,043	(2,457)
Cumulative funding to 30 June 2023	20,500	14,500	12,043	(2,457)
Remaining appropriation	43,574	31,574	34,031	2,457
Total appropriation	64,074	46,074	46,074	–
Vote Business, Science and Innovation: Enforcement of General Market Regulation MCA – Liquid Fuels Monitoring and Enforcement				
Revenue Crown	4,819	5,319	5,319	–
Vote Business, Science and Innovation: Regulation of Electricity Lines Services 2019–2024 (MYA)				
Cumulative funding to 1 July 2022	21,216	18,810	18,810	–
Revenue – Crown	8,510	8,510	6,663	(1,847)
Cumulative funding to 30 June 2023	29,726	27,320	25,473	(1,847)
Remaining appropriation	8,839	11,245	13,092	1,847
Total appropriation	38,565	38,565	38,565	–
Vote Business, Science and Innovation: Regulation of Gas Pipeline Services 2019–2024 (MYA)				
Cumulative funding to 1 July 2022	6,098	6,041	6,041	–
Revenue – Crown	3,812	3,812	2,953	(859)
Cumulative funding to 30 June 2023	9,910	9,853	8,994	(859)
Remaining appropriation	3,111	3,168	4,027	859
Total appropriation	13,021	13,021	13,021	–

Economic regulation 2022/23 funding	Estimates $000	Supplementary Estimates $000	Actual $000	Actual vs Supplementary Estimates $000
Vote Business, Science and Innovation: Regulation of Specified Airport Services 2019–2024 (MYA)				
Cumulative funding to 1 July 2022	1,259	1,025	1,025	–
Revenue – Crown	896	470	648	178
Cumulative funding to 30 June 2023	2,155	1,495	1,673	178
Remaining appropriation	608	1,268	1,090	(178)
Total appropriation	2,763	2,763	2,763	–
Vote Business, Science and Innovation: Enforcement of General Market Regulation MCA – Retail Payment Systems Administration and Enforcement				
Revenue Crown	4,577	4,577	4,577	–
Vote Business, Science and Innovation: Review of Commerce Act Input Methodologies for Economic Regulation for the Period 2021–2024 (MYA)				
Cumulative funding to 1 July 2022	500	417	417	–
Revenue – Crown	5,600	5,600	5,055	(545)
Cumulative funding to 30 June 2023	6,100	6,017	5,472	(545)
Remaining appropriation	1,900	1,983	2,528	545
Total appropriation	8,000	8,000	8,000	–
Vote Business, Science and Innovation: Enforcement of Dairy Sector Regulation and Auditing of Milk Price Setting				
Revenue Crown	757	379	377	(2)
Vote Business, Science and Innovation: Enforcement of Dairy Sector Regulation and Monitoring of Milk Price Setting				
Revenue Crown	–	1,249	447	(802)
Vote Business, Science and Innovation: Grocery Sector Regulation				
Revenue Crown	–	4,790	3,575	(1,215)
Vote Business, Science and Innovation: Enforcement of General Market Regulation MCA – Transition and Implementation of Economic Regulation and Consumer Protection Regime of Three Waters				
Revenue Crown	–	1,613	1,313	(300)
Vote Business, Science and Innovation: Economic Regulation Inquiries				
Revenue Crown	–	1,000	–	(1,000)

Torotoro waea
Telecommunications

Contextual information

This output class is intended to achieve the promotion of competition in broadband and mobile markets for the benefit of consumers through regulating wholesale telecommunications services and monitoring the performance of retail service providers, with a focus on improving the quality of services provided to consumers.

The purpose of these measures is to capture the number of regulatory decisions (including determinations, clarifications, reviews, codes and amendments) completed during the financial year relating to telecommunications services. Determinations are the main rule-setting tool we use to regulate telecommunications services. These measures provide line of sight to the overall outcome that consumers get quality and value from reliable essential services because of the limits and requirements our determinations decisions put in place.

The measure relating to the number of telecommunications reports completed as part of our telecommunications monitoring regime increases transparency about performance for industry and consumers.

These measures also support achieving our broader outcomes about stewardship of the regulatory systems that we implement and enforce, ensuring that our processes are open and transparent.

The telecommunications and fibre appropriations were combined into one appropriation in the 2022/23 financial year because of amendments to the Telecommunications Act 2001 and the core elements of the fibre regime in place by December 2021. Please refer to page 76 of our 2021/22 Annual Report for information and results on the fibre output class.[35]

Along with the new appropriation for the 2022/23 year, a new timeliness measure was introduced capturing the percentage of telecommunications determinations completed by statutory timeframes.

The 2022/23 targets for the number of determinations and number of reports completed have changed due to the previously separate fibre and telecommunications output classes being combined into one output class in 2022/23, the phasing of the regulatory cycles and planning decisions around the related work programme.

Telecommunications output measures	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	12 (Telco: 2 Fibre: 10)	At least 10	4	At least 4	5	9
Commentary: The target for the number of telecommunications determinations was exceeded due to demand-driven decisions involving an additional fibre determination and expenditure proposal from Chorus.						
Quality assurance processes for determinations and code amendments are in place and applied	100%	100%	100%	100%	100%	100%

35 https://comcom.govt.nz/__data/assets/pdf_file/0018/306036/Commerce-Commission-Annual-Report-2022.pdf

Telecommunications output measures	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Methodology: This measure demonstrates that quality assurance processes are in place and applies to determinations/codes completed during the financial year and shows the quality checks that underpin our rule-setting.						
New measure: Percentage of Telecommunications Act 2001 determinations completed by statutory deadlines	Telco: 100% Fibre: 100%	100%	–	–	–	–
Methodology: This is a new timeliness measure. Our Statement of Performance Expectations 2022/23 incorrectly captured this measure as having targets for the 2021/22 financial year.						
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	5	At least 3	9	At least 3	9	6
Commentary: The target for the number of telecommunications reports was exceeded due to publishing four reports from our expanded Measuring Broadband New Zealand monitoring programme throughout the year.						

Our telecommunications work is funded through Vote Business, Science and Innovation: Regulation of Telecommunications Services 2022–2025.

Telecommunications	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Operating revenue					
Revenue – Crown	12,043	14,500	13,152	15,092	10,193
Other revenue	285	63	205	81	118
Total operating revenue	12,328	14,563	13,357	15,173	10,311
Total operating expense	12,328	14,563	13,357	15,173	10,311
SURPLUS/(DEFICIT)	–	–	–	–	–

Expenditure in the telecommunications output class was lower than budget primarily driven by less activity across the output class. Previous years' results include the fibre output class as the telecommunications and fibre appropriations were combined into one appropriation in the 2022/23 financial year.

STRATEGIC INDICATOR

Regulated suppliers provide strong and sustainable infrastructure that benefits New Zealanders

Contextual information

Through our monitoring of the telecommunications sector, we also assess whether telecommunications network providers have delivered appropriate network coverage and service quality through their infrastructure to deliver benefits for New Zealanders.

Methodology

We publish the findings of our telecommunications monitoring programme in an annual telecommunications report, which covers a calendar year rather than a financial year. Our most recent annual telecommunications monitoring report for the 2022 year was published in June 2023. We use the information contained in this report to assess overall market performance, including whether markets are working as expected.

Regulated suppliers provide strong and sustainable infrastructure that benefits New Zealanders

	Target	2022/23 result	2021/22 result
Our assessment of the telecommunications sector based on an analysis of a range of metrics relating to the infrastructure performance of network providers and quality of services.	Achieved	Achieved	Achieved

Our analysis from our 2022 annual telecommunications monitoring report shows the following:

- Fixed broadband speed: Aotearoa New Zealand ranked ninth in the OECD in our 2022 monitoring report, with average fixed broadband download speeds of 94 Mbps. New Zealand's average fixed broadband download speeds exceeded those of Australia, the United Kingdom and the OECD average of 74 Mbps.
- Fixed wireless connections: Fixed wireless connections have increased to 315,000, up 14% from 2021. In our 2022 monitoring report, Aotearoa New Zealand ranked fourth among OECD countries for fixed wireless broadband connections.
- Copper transition: 87% of Kiwis (1.8 million homes/businesses) can connect to fibre following completion of the Ultra-Fast Broadband programme in December 2022, with an average uptake rate of 70%. Consumers continue to move away from copper with a 42% drop in urban copper broadband connections, equating to 72,000 consumers leaving the copper network.

Satellite technology: Following the entry of Starlink, satellite has been the fastest-growing technology in rural areas, with connections increasing from 1,900 to 12,000 over the past year. This is the fourth-highest level of satellite connections per capita in the OECD.

STRATEGIC INDICATOR

Regulated suppliers are confident to invest in regulated assets

Contextual information

We are responsible for the regulatory regimes that ensure regulated suppliers have incentives to invest to provide sustainable and strong infrastructure. Sound asset stewardship is an integral part of ensuring that regulated businesses improve efficiency and provide services at a price and quality that reflects the demands of consumers. The regulatory regime under Part 6 of the Telecommunications Act ensures that businesses can invest to deal with a changing landscape (such as new technologies and resilience to climate change).

We make a qualitative assessment about the confidence of the telecommunications sector to invest in regulated assets using the performance information and data provided by the telecommunications sector about infrastructure investment.

Methodology

We publish the findings of our telecommunications monitoring programme in an annual telecommunications report, which covers a calendar year rather than a financial year. Our most recent annual telecommunications monitoring report for the 2022 year was published in June 2023. We use the information contained in this report to assess overall market performance and network investment.

Regulated suppliers are confident to invest in regulated assets (fibre regulatory regime)

We developed a new regulatory regime for fibre services that went live on 1 January 2022. This is designed to deliver the certainty, stability and predictability required for ongoing investment in this essential infrastructure.

The new regime has been well received by the industry and financial markets, including Standard & Poor's and Moody's, which have commented positively on the increased certainty the new regime provides to the market.

We are currently focused on working with the industry to embed the new regime and ensure that regulated fibre providers meet their ongoing information disclosure requirements.

STRATEGIC INDICATOR

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

Contextual information

This strategic indicator allows us to identify whether consumers are confident that they are receiving services at an appropriate price or quality. Customer satisfaction can be used as a proxy to determine consumer confidence in the telecommunications market.

Methodology

We are now conducting a monthly customer satisfaction survey that separates out mobile from fixed line services. This monthly survey is not directly comparable to the joint survey we ran with Consumer NZ in the 2020/21 financial year. The benchmark level for satisfaction in each area is 80%.

Indicator	Target	2022/23	2021/22	2020/21
Consumers are confident that regulated suppliers are providing services at an appropriate price and quality	Maintain or increase confidence	Unable to report	No result	78% (Mobile and fixed line)

Commentary: Initial results from the first six months of our new consumer satisfaction survey (January to June 2023) indicate that overall satisfaction with telecommunications retail service providers appears satisfactory. However, there are several specific areas such as customer service where satisfaction is lower than our benchmark level of (80%).

This survey allows for regular results with robust data to inform our understanding of consumer demand.

Six-month results	Mobile average	Broadband average
Percentage of consumers overall satisfaction with current provider	84%	79%

Ratonga waea hiko
Electricity lines services

Contextual information

This output class is intended to achieve the delivery of regulated electricity lines services at prices and quality for the long-term benefit of consumers if there were a competitive market.

The purpose of the output measures is to capture the number of regulatory decisions and performance reports completed during the financial year relating to electricity lines services along with supporting measures covering statutory timeframes and quality assurance processes.

Determinations are the main rule-setting tool we use to regulate electricity lines services. The quantity measure for determinations provides line of sight to the overall outcome that consumers get quality and value from reliable essential services because of the limits and requirements our determinations decisions put in place. The measure relating to the number of reports completed is a meaningful measure because it captures how we provide performance information on electricity network businesses to promote greater understanding of the performance of regulated businesses, their relative performance and the changes in performance over time. Regulated electricity lines businesses provide information to us as part of their disclosure requirements (set by determinations), and we then publish a summary and analysis of this information.

The 2022/23 targets for the number of determinations and number of reports completed have changed due to the phasing of the regulatory cycle and planning decisions around the related work programme.

Electricity lines services output measures	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	7	At least 4	6	At least 3	8	19
Commentary: The target for the number of electricity lines services determinations was exceeded because of additional amendment determinations relating to electricity distribution businesses and Transpower produced during the year.						
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	100%	100%	There were no determinations with statutory deadlines	100%	100%	100%
Commentary: While seven determinations were completed in 2022/23, only one determination had a statutory deadline. The determination was completed by the timeframe required meaning the percentage of determinations completed by statutory deadlines is 100%.						
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	6	At least 4	4	At least 5	6	4
Commentary: The target for the number of electricity lines services reports completed was exceeded because reports intended to be published in 2021/22 were delayed until July 2022 (due to staff resourcing issues, including the impact of COVID-19) and additional industry performance information published during the year due to internal process improvements.						

Electricity lines services output measures	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Quality assurance processes for determinations and code amendments are in place and applied	100%	100%	100%	100%	100%	100%

Methodology: This is a companion measure to the number of determinations. Every determination and code amendment must follow a rigorous quality assurance process.

Our electricity lines services work is funded through the multi-year appropriation Vote Business, Science and Innovation: Regulation of Electricity Lines Services 2019–2024.

Electricity lines services	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Operating revenue					
Revenue – Crown	6,663	8,510	6,135	8,541	5,792
Other revenue	177	39	91	44	1,505
Total operating revenue	6,840	8,549	6,226	8,585	7,297
Total operating expense	6,840	8,549	6,226	8,585	7,297
SURPLUS/(DEFICIT)	–	–	–	–	–

Expenditure in the electricity lines services output class was lower than budget as a result of lower activity in the compliance and enforcement workstreams as well as the public reports and advice to officials workstreams.

STRATEGIC INDICATOR

Regulated suppliers provide strong and sustainable infrastructure

Contextual information

We are responsible for the regulatory regimes that ensure regulated suppliers provide sustainable and strong infrastructure. Below is our high-level assessment of the overall performance of the telecommunications, electricity, gas and airports sectors. We use a range of metrics (such as profitability and quality of services) to assess whether regulated businesses in the energy and airport sectors are providing strong and sustainable infrastructure.

The 2022/23 result is calculated using the three assessments described on pages 108, 114–115, 118–119 and 122.

Indicator	Performance indicator	Target	2022/23	2021/22	Baseline
Regulated suppliers provide strong and sustainable infrastructure that benefits New Zealanders	Commerce Commission's analysis An assessment by the Commission based on an analysis of a range of metrics relating to the performance of regulated suppliers such as profitability and quality of services	Achieved	Achieved	Achieved	Achieved

STRATEGIC INDICATOR

Regulated suppliers provide strong and sustainable infrastructure (assessment of electricity distribution businesses reliability – planned and unplanned outage number and duration per customer)

Contextual information

Electricity networks connect power generators to homes and businesses across New Zealand. The Commission regulates transmission and distribution businesses to ensure they have incentives to innovate, invest and meet customers' quality demands but are also limited in their ability to earn excessive profits.

Regulated electricity lines businesses (electricity distribution businesses and Transpower) are required to provide performance information and data publicly as part of their disclosure requirements. We use this information to make a qualitative assessment of the performance of the electricity sector for this strategic indicator. While our focus is on the overall performance of network businesses, the assessment also draws on our broader knowledge of the electricity sector based on stakeholder engagement and compliance and enforcement activity.

This information helps us evaluate whether regulated suppliers are providing strong and sustainable infrastructure in support of markets working well for all New Zealanders.

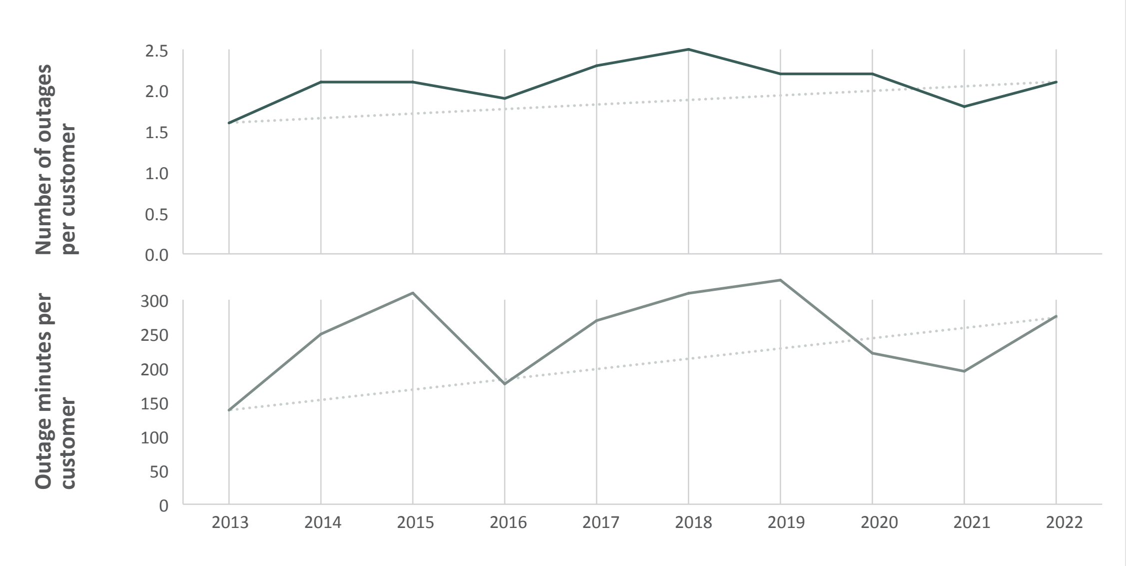
Methodology

Electricity distribution businesses provide these disclosures to us annually. The information we used for our assessment relates to the 2022 year and the underlying methodology for making the assessment is unchanged from previous years. While we did make changes to the information disclosure rules that apply to electricity distribution businesses in 2022/23, these changes focused on refining reporting requirements in relation to quality of service and asset management and expanded requirements around decarbonisation. These changes only apply from March 2023 and do not affect the methodology for making the 2022/23 assessment for this strategic indicator.

STRATEGIC INDICATOR *continued*

Regulated suppliers provide strong and sustainable infrastructure (assessment of electricity distribution businesses reliability – planned and unplanned outage number and duration per customer)

Electricity distribution businesses reliability – planned and unplanned outage number and duration per customer



Note: Electricity distribution businesses reliability figures above are non-normalised.

Commentary: The average number and duration of outages that each customer experiences have remained similar over time. While there were more outages per customer in the year ended March 2022 compared to the previous year, this was lower than outages per customer between 2017 and 2020.

Outages are categorised as planned (notified in advance) or unplanned. Planned outages allow work to be completed on the network, while unplanned outages are caused by external events such as adverse weather or defective equipment. This reflects the continued high level of investment to improve and replace assets. Some lines companies have also made changes to health and safety practices that ensure the safety of line workers but can lead to longer-duration outages.

Although the trend lines show a minor upwards trend, we are confident that this does not represent a decline in the underlying quality or resilience of the networks. In 2022, weather events across Aotearoa New Zealand caused flooding and high winds. These affected a number of networks and disrupted electricity supply. The duration that customers were without electricity during unplanned outages increased but remained below the levels seen in 2018 and 2019. We expect that the duration will also increase in the next year of data for some electricity distribution businesses due to the impact of the Auckland Anniversary Day flooding and Cyclone Gabrielle.

Reducing the duration of outages requires networks to be resilient and plan for such events by having people and equipment available to respond. Our view is that lines companies are improving their planning and response to climate-related events.

STRATEGIC INDICATOR

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

Contextual information

Electricity networks connect power generators to homes and businesses across New Zealand. The Commission regulates transmission and distribution businesses to ensure they have incentives to innovate, invest, and meet customers' quality demands, but are also limited in their ability to earn excessive profits.

We use results from the Electricity Authority's consumer survey to measure consumer and business confidence in regulated businesses. The Electricity Authority's consumer survey is now in its third year. Consumers are asked to rate statements based on the outcomes they could reasonably expect to see in an electricity market that is competitive, reliable and efficient. The survey results measure our contribution to consumer and business confidence in regulated businesses.

Methodology

Results from this survey are not comparable to those from surveys prior to 2020/21 because the questions asked and the scale used have changed. Previous results can be found in our 2019/20 Annual Report. The results from 2020/21 form the baseline against which progress will now be measured.

Indicator	Target	2022/23	2021/22	2020/21
Consumers are confident that regulated suppliers are providing services at an appropriate price and quality	Maintain or increase confidence	Reliability 61%	Reliability 62%	Reliability 64%
		Efficiency 63%	Efficiency 59%	Efficiency 65%

Commentary: Results show a small reduction in the percentage of domestic consumers surveyed who agreed with the range of statements on electricity reliability, and an increase in the percentage of domestic consumers surveyed who agreed with the range of statements on electricity efficiency.

Ratonga kapuni
Gas pipeline services

Contextual information

This output class is intended to achieve the delivery of regulated gas pipeline services at prices and quality for the long-term benefit of consumers that would have been available if there were a competitive market.

The purpose of the output measures is to capture the number of regulatory decisions and performance reports completed during the financial year relating to gas pipelines services, along with supporting measures covering statutory timeframes and quality assurance processes. The use of a quantity measure for determinations reflects that they are the main rule-setting tool we use to regulate gas pipeline services. The measure provides line of sight to the overall outcome that consumers get quality and value from reliable essential services because of the limits and requirements our determinations decisions put in place. The measure relating to the number of reports completed captures how we provide performance information on gas network businesses to promote greater understanding of the performance of regulated businesses, their relative performance, and the changes in performance over time. Regulated gas pipeline businesses provide information to us as part of their disclosure requirements (set by determinations) and we then publish a summary and analysis of this information.

Taken together, the measures also support achieving our broader outcomes about stewardship of the regulatory systems that we implement and enforce, ensuring that our processes are open and transparent.

The 2022/23 target for the number of determinations has changed due to the phasing of the regulatory cycle and planning decisions around the related work programme.

Gas pipeline services output measures	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	2	At least 2	11	At least 4	2	2
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	There were no determinations with statutory deadlines	100%	100%	100%	There were no determinations with statutory deadlines	There were no determinations with statutory deadlines
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	6	At least 3	3	At least 3	3	2
Commentary: The target for the number of gas pipeline services reports completed was exceeded because additional industry performance information was published during the year due to internal process improvements.						
Quality assurance processes for determinations and code amendments are in place and applied	100%	100%	100%	100%	100%	100%

Our gas pipeline services work is funded through the multi-year appropriation Vote Business, Science and Innovation: Regulation of Gas Pipeline Services 2019–2024.

Gas pipeline services	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2019/20 Actual $000
Operating revenue					
Revenue – Crown	2,953	3,812	3,660	3,717	1,081
Other revenue	85	18	39	20	16
Total operating revenue	3,038	3,830	3,699	3,737	1,097
Total operating expense	3,038	3,830	3,699	3,737	1,097
SURPLUS/(DEFICIT)	–	–	–	–	–

Expenditure in the gas pipeline services output class was lower than budget, driven by reduced activity in the determinations, public reports and advice to officials workstreams, partially offset by increased activity in the compliance and enforcement workstream.

STRATEGIC INDICATOR

Regulated suppliers provide strong and sustainable infrastructure – regulated gas pipeline network assessment

Contextual information

Regulated gas pipeline networks provide homes and businesses in the North Island with access to natural gas. We regulate the transmission and distribution businesses that own and operate New Zealand's gas pipeline infrastructure. This ensures that the gas pipeline businesses have the incentives to deliver reliable and resilient services to consumers at the lowest cost.

Regulated gas pipeline networks are required to provide performance information and data to us as part of their disclosure requirements. We use this information to make a qualitative assessment of the performance of the gas sector for this strategic indicator. While our focus is on the overall performance of network businesses, the assessment also draws on our broader knowledge of the gas sector based on stakeholder engagement and compliance and enforcement activity.

This information helps us evaluate whether regulated suppliers are providing strong and sustainable infrastructure in support of markets working well for all New Zealanders.

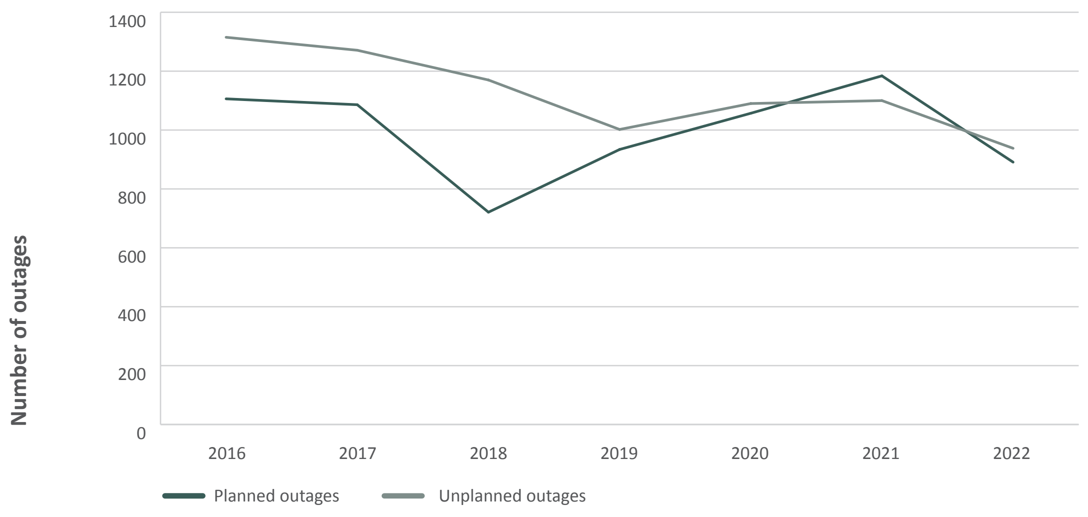
We receive these disclosures annually. The information we used for our assessment relates to the 2022 year, and the underlying methodology for making the assessment is unchanged from previous years. No changes were made to the information disclosure rules that apply to gas transmission and distribution businesses in 2022/23.

STRATEGIC INDICATOR *continued*

Regulated suppliers provide strong and sustainable infrastructure

We consider that gas pipeline businesses are generally continuing to provide strong and sustainable infrastructure for the benefit of New Zealanders.

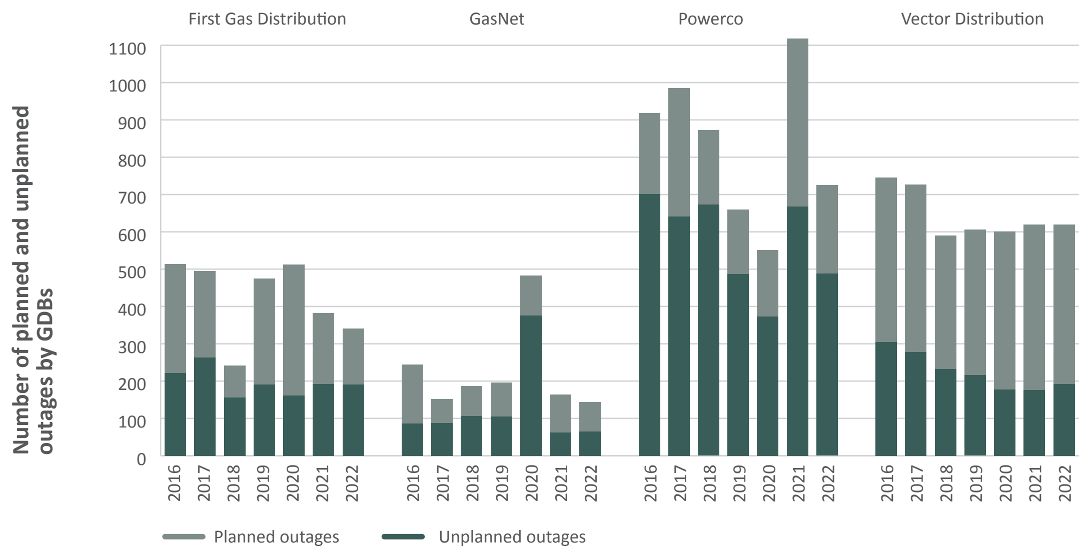
The planned and unplanned outages from all the gas distribution businesses have gone down compared to 2021. This is an improvement in the quality-of-service gas pipeline businesses deliver to their consumers and continues an overall downward trend in unplanned outages.



Outages by individual gas pipeline businesses share a similar trend, as shown in the chart below.

The total number of outages has generally been decreasing on all networks except GasNet in 2020 and Powerco in 2021. The higher number of outages on GasNet's network in 2020 was associated with water leaks. Powerco's high number of outages in 2021 was partly due to planned interruptions for the replacement of corroded risers in the Wellington, Hutt Valley, and Porirua network regions.

As a result of the decreasing number of gas outages, the number of emergencies experienced by customers and the number of complaints made by customers have also decreased significantly over recent years.



Ratonga tauranga rererangi
Specified airport services

Contextual information

This output class is intended to achieve the delivery of specified airport services at prices and quality that would have been available if the market were competitive for the long-term benefit of consumers.

Our role is to regulate specific airport services at New Zealand's three major international airports (Auckland, Wellington and Christchurch) under Part 4 of the Commerce Act 1986. The three airports are subject to information disclosure regulation relating to certain key airport facilities and services.

The purpose of the output measures is to capture the number of regulatory decisions and performance reports completed during the financial year relating to specified airport services, along with supporting measures covering statutory timeframes and quality assurance processes. The use of a quantity measure for determinations reflects that they are the main rule-setting tool we use to regulate specified airport services. The measure relating to the number of reports completed captures how we provide performance information on the three major international airports to promote greater understanding of their relative performance, and the changes in performance over time. The airports each provide information to us as part of their disclosure requirements
(set by determinations) and we publish a variety of performance reports based on this information.

Taken together, the measures also support achieving our broader outcomes about stewardship of the regulatory systems that we implement and enforce, ensuring that our processes are open and transparent.

In 2022/23, we completed our review of Wellington International Airport's fourth price-setting event (see commentary below for further detail).

We are currently reviewing Christchurch International Airport's reset of prices and will begin reviewing Auckland International Airport's pricing decisions later this year. In April 2023, we updated our information disclosure database for airports to include information disclosed between 2011 and 2022. The database can be accessed on our website.

The 2022/23 target for the number of reports completed has changed due to the phasing of the regulatory cycle and planning decisions around the related work programme.

Specified airport services output measures	2022/23 Actual	Target	2021/22 Target	2021/22 Actual	2020/21 Actual	2019/20 Actual
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	2	At least 2	2	At least 2	2	2
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	There were no determinations with statutory deadlines	100%	There were no determinations with statutory deadlines	100%	There were no determinations with statutory deadlines	There were no determinations with statutory deadlines
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	2	At least 1	1	At least 2	0	0
Commentary: In September 2022, we published our final report on Wellington International Airport's price-setting event covering the five-year period from 2019/20 to 2023/24. This was the fourth review for Wellington International Airport since information disclosure requirements were set under the Commerce Act.						
Quality assurance processes for determinations and code amendments are in place and applied	100%	100%	100%	100%	100%	100%

Our airport services work is funded through the multi-year appropriation Vote Business, Science and Innovation: Regulation of Specified Airport Services 2019–2024.

Specified airport services	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Operating revenue					
Revenue – Crown	648	896	366	600	341
Other revenue	17	4	6	2	5
Total operating revenue	665	900	372	602	346
Total operating expense	665	900	372	602	346
SURPLUS/(DEFICIT)	–	–	–	–	–

Expenditure in the specified airport services output class was lower than budget, primarily driven by lower-than-expected activity in the public reports and advice to officials workstream.

STRATEGIC INDICATOR

Regulated suppliers provide strong and sustainable infrastructure (airports)

Contextual information

Auckland, Wellington and Christchurch International Airports are our gateways to the world. Our international airports are subject to a light-handed form of regulation called information disclosure. This involves shining a light on the airports' pricing and spending decisions to improve transparency about their performance.

Airports are required to provide performance information and data as part of their disclosure requirements. We use this information to make a qualitative assessment of the performance of the airports sector for this strategic indicator. The assessment draws on our broader knowledge of the airports sector based on stakeholder engagement and periodic review of the price-setting events of each airport.

This information helps us evaluate whether regulated suppliers are providing strong and sustainable infrastructure in support of markets working well for all New Zealanders.

The information we used for our assessment relates to the 2022 year, and the underlying methodology for making the assessment is unchanged from previous years. No changes were made to the information disclosures rules that apply to airports in 2022/23.

Commentary

The aviation industry continues to recover from the COVID-19 pandemic period when there was a significant reduction in passenger volumes and airports were not operating at capacity. In this context, we consider that the underlying airport infrastructure generally remained strong in 2022/23.

Reliability measures disclosed by airports provide an indication of the quality of airport infrastructure. Historically, runway outages at the three airports we regulate are rare. However, Auckland Airport had two substantial outages in 2020 due in part to the unusually hot and dry weather. For disclosure year 2022, there were no outages for runways or taxiways at all three airports.

Interruptions to the baggage sortation system on departure showed a downward trend for Auckland and Christchurch Airports. However, Wellington Airport experienced an upward trend and a spike of 20 interruptions with a combined 86.4 hours that were attributed to the airport.

Wellington Airport has recognised the baggage system is reaching the end of its useful life and attributed several outages in recent years to ageing equipment. Wellington Airport has stated that it is working through the design process for a replacement system, expected in the fifth price-setting period (starting 1 April 2024). In the interim, minor works and system optimisation were noted as being undertaken to manage performance of the equipment.

STRATEGIC INDICATOR

Regulated suppliers are confident to invest in regulated assets

Contextual information

We are responsible for the regulatory regimes that ensure regulated suppliers have incentives to invest to provide sustainable and strong infrastructure. Sound asset stewardship is an integral part of ensuring that regulated businesses improve efficiency and provide services at a price and quality that reflects the demands of consumers. The regulatory regimes under Part 4 of the Commerce Act ensure that businesses can invest to deal with a changing landscape (such as increased electrification, resilience to climate change and new technologies).

Below is our qualitative assessment about the confidence of electricity, gas, airports and telecommunications businesses to invest in regulated assets. We use the performance information and data provided by regulated businesses to make a qualitative assessment of investment levels for this strategic indicator. This information helps us assess how confident regulated suppliers are to invest in regulated assets in support of markets working well for all New Zealanders.

Methodology

Regulated businesses provide these disclosures to us annually. The information we used for our assessment relates to the 2022 year, and the underlying methodology for making the assessment is unchanged from previous years. While the Commission did make changes to the information disclosure rules that apply to electricity distribution businesses in 2022/23, these changes focused on refining reporting requirements in relation to quality of service and asset management and expanded requirements around decarbonisation. Although there were small changes to disclosures around specific expenditure projections, these changes only apply from March 2023. These small changes do not affect the methodology for making the 2022/23 assessment for this strategic indicator (especially as the assessment focuses on aggregate level of investment). We only have available capital expenditure forecasts for all three airports to 2027. For this reason, airports data is excluded from the rolling five-year average (labelled as 'energy only' in the graph below).

STRATEGIC INDICATOR

Regulated suppliers are confident to invest in regulated assets (energy and aviation sectors)

Energy networks

Our view is that energy networks remain confident about investing in regulated assets. The energy networks sector invested around $1.7 billion in 2022, and based on the asset management plans of the regulated suppliers, investment is forecast to continue at around $1.8–2.5 billion annually over the next five years. Investment is driven by replacing and renewing ageing assets, improving network resilience, reliability and safety, and for network capacity growth. The speed of investment in new capacity remains uncertain because of uncertainty in the timing of uptake in new solar connections, distributed energy resources and decarbonisation projects.

In contrast to the electricity networks, gas pipeline businesses are not forecasting increasing investment in the future. This is expected, with the decarbonisation of the New Zealand economy resulting in an expected decline in demand in the gas sector.

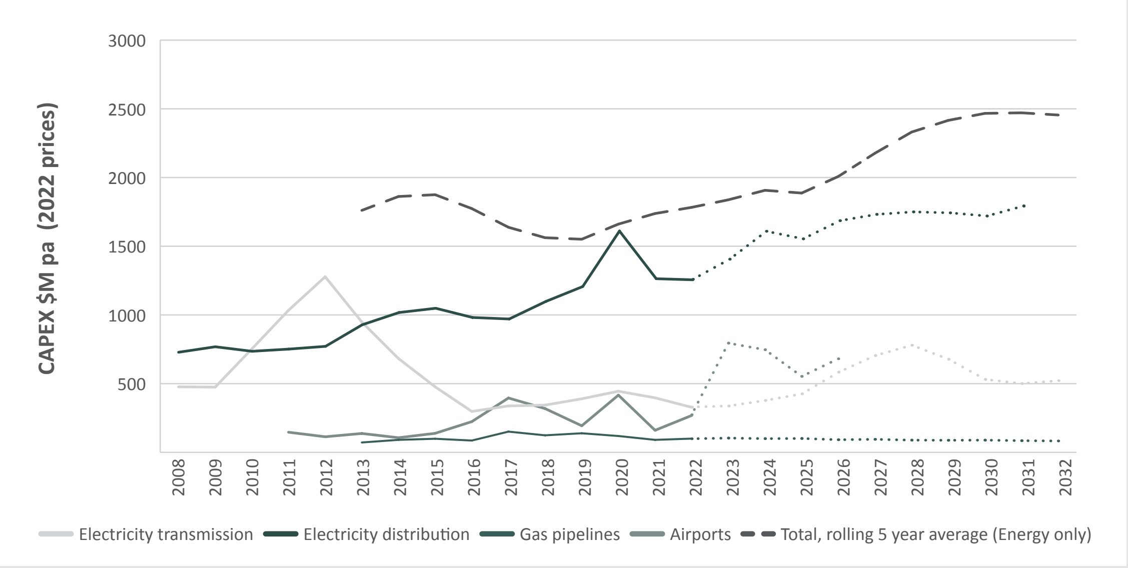
Many electricity distribution businesses are still assessing the full extent of network damage and resilience response required following the extreme weather events of 2023. Therefore, we would expect an increase in capex forecasted in some electricity distribution businesses' asset management plans from 2024 onwards.

Investment in airports

Investment in airports increased slightly in 2022 primarily due to investment activity at Auckland Airport. While there was a decrease in investment in airports in 2021, we consider this was attributed primarily to the ongoing effects of COVID-19 rather than any action taken by the Commission. Investment is forecast to increase significantly in 2023.

Historical expenditure is displayed in the solid lines in the graph below, with forecast expenditure in dotted lines.

Capex investment across Part 4 regulated sectors



Huarahi kōkuhunga
Input methodologies

Contextual information

This output class is intended to achieve the review of input methodologies relating to regulated businesses as prescribed under Part 4 of the Commerce Act 1986.

The purpose of the output measure below is to demonstrate progress towards completing the statutory review of input methodologies by December 2023. Input methodologies are the rules and processes that underpin the Commission's price-quality and information disclosure regulation of airport services, electricity lines services and gas pipeline services. They cover key concepts such as cost allocation, asset valuation, risk allocation and the cost of capital. The review gives us the opportunity to assess whether there are any necessary changes to our rules to more effectively promote long-term consumer benefits, improve the certainty that the input methodologies are intended to provide or significantly reduce complexity and compliance costs.

Given the statutory deadline for completing the review is December 2023 (in 2023/24), in reporting years prior to the final decision, we report the actual measure as progress towards completing the review by the statutory timeframe.

Input methodologies output measure	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual
Input methodologies under Part 4 of the Commerce Act 1986 are reviewed by December 2023	On track	Achieved	On track	Achieved	New measure

Commentary: In the 2022/23 financial year, we published multiple consultation papers and held several workshops that fed into the release of our draft decisions and determinations on 14 June 2023. Our final decisions must be made by December 2023 and will be informed by submissions on our draft decisions. Details of the papers published in 2022/23 and 2023/24 process steps can be found on our website.[36]

Our input methodologies work is funded through the multi-year appropriation Vote Business, Science and Innovation: Review of Commerce Act Input Methodologies for Economic Regulation for the Period 2021–2024.

Input methodologies	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Operating revenue					
Revenue – Crown	5,055	5,600	417	500	–
Other revenue	110	25	6	3	–
Total operating revenue	5,165	5,625	423	503	–
Total operating expense	5,165	5,625	423	503	–
SURPLUS/(DEFICIT)	–	–	–	–	–

Expenditure in the input methodologies output class was lower than budget as the Commission was able to complete the draft input methodology determinations at a lower overall cost than anticipated.

36 https://comcom.govt.nz/regulated-industries/input-methodologies/input-methodologies-for-electricity-gas-and-airports/input-methodologies-projects/2023-input-methodologies-review

Uiuinga Wāhanga 4
Part 4 inquiries
(economic regulation inquiries)

Contextual information

This output class is intended to achieve better long-term outcomes for consumers by undertaking economic regulation inquiries (if required) under Part 4 of the Commerce Act 1986 in markets where there is little or no competition and little or no likelihood of a substantial increase in competition.

The purpose of this measure is to capture the number of market inquiries the Commission has completed under Part 4 of the Commerce Act for the financial year.

Part 4 of the Commerce Act 1986 sets out the goods and services that are currently subject to regulation as well as the process for us to undertake inquiries into whether regulation of other goods or services may be needed. A Part 4 inquiry is an investigation into whether certain goods or services should be regulated under Part 4. Such an inquiry can be undertaken on our own initiative or at the direction of the Minister of Commerce and Consumer Affairs. Following an inquiry into particular goods or services, we must make a recommendation to the Minister of Commerce and Consumer Affairs on whether those goods or services should be subject to regulation.

The Commission has not completed a Part 4 inquiry since the function was introduced in 2008 (when Part 4 was introduced to the Commerce Act 1986). While we have undertaken several preliminary assessments into regulating domestic milk markets, Eastland Port and gas metering services, these did not lead to a formal inquiry.

Part 4 inquiries output measure	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Part 4 inquiries will be completed as required	There were no Part 4 inquiries	Achieved	There were no Part 4 inquiries	Achieved	There were no Part 4 inquiries	There were no Part 4 inquiries

Our Part 4 inquiries work is funded through Vote Business, Science and Innovation: Economic Regulation Inquiries, where Part 4 inquiries have been budgeted.

Hinu
Fuel

Contextual information

This output class is intended to achieve the promotion of competition in engine fuel markets for the long-term benefit of end users of engine fuel products.

We are in the early stages of monitoring the fuel industry and producing regulatory reports to increase transparency for New Zealanders. We are also looking at monitoring what is happening in the market, which will help determine the approach we take to regulating the fuel industry.

Our regulatory reports are the key to giving effect to our monitoring and analysis powers under the Fuel Industry Act 2020. All fuel companies are required to provide information to us as part of our monitoring activities and disclosure requirements.

The 2022/23 target for the number of Fuel Industry Act 2020 reports completed has changed due to the phasing of the regulatory cycle and planning decisions around the related work programme.

Fuel output measure	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Number of Fuel Industry Act 2020 reports completed	3	At least 2	1	At least 1	New measure	–

Methodology: Our quarterly reports provide a snapshot of the competitive performance of fuel markets in New Zealand based on our analysis of information disclosed to us.
Commentary: In 2022/23, we published our first and two subsequent quarterly monitoring reports on the fuel regime.

Our fuel work is funded through the multi-category appropriation Vote Business, Science and Innovation: Enforcement of General Market Regulation – Liquid Fuels Monitoring and Enforcement.

Fuel	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Operating revenue					
Revenue – Crown	5,319	4,819	3,330	3,830	484
Other revenue	92	20	34	17	7
Total operating revenue	5,411	4,839	3,364	3,847	491
Total operating expense	3,778	4,839	2,908	3,847	491
SURPLUS/(DEFICIT)	1,633	–	456	–	–

Expenditure in the fuel output class was lower than budget primarily due to less activity in the compliance and enforcement workstream than anticipated.

Pūnaha utu hokohoko
Retail payment systems

Contextual information

This output class is intended to achieve the promotion of competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers.

Our main regulatory functions include monitoring and analysing competition and efficiency in the retail payment system, recommending regulation for specific retail payment networks where competition or efficiency can be improved and setting and enforcing rules for regulated networks.

This is the first year of reporting for the retail payment system since the Retail Payment System Act came into force in May 2022.

Retail payment systems output measure	2022/23 Actual	Target	2021/22 Actual	2020/21 Actual
Number of retail payment systems reports completed	3	At least 1	New measure	N/A

Commentary: Our reporting outputs this year have focused on developing our understanding of the retail payment system, implementing the interchange fee price caps and providing guidance to participants on the designated networks, merchants and consumers as outlined in section 2 of this report.

Our retail payment systems work is funded through the multi-category appropriation Vote Business, Science and Innovation: Enforcement of General Market Regulation – Retail Payment Systems Administration and Enforcement.

Retail payment systems	2022/23 Actual $000	Budget $000	2021/22 Actual $000
Operating revenue			
Revenue – Crown	4,577	4,577	–
Other revenue	93	19	–
Total operating revenue	4,670	4,596	–
Total operating expense	4,257	4,596	–
SURPLUS/(DEFICIT)	413	–	–

Expenditure in the retail payment systems output class was lower than budget due to lower internal resourcing cost.

Mahi miraka kau
Dairy

Contextual information

This output class is intended to achieve incentives for Fonterra to operate efficiently while providing for contestability in the market for the purchase of milk from farmers. We have recently gained additional powers to issue binding directions on Fonterra, including requiring Fonterra to publicly disclose certain base milk price-setting process information.

We administer the milk price monitoring regime that applies to Fonterra under the Dairy Industry Restructuring Act 2001 (DIRA). This involves reporting on the extent to which Fonterra's milk price-setting processes and calculations provide incentives for Fonterra to operate efficiently and are consistent with contestability in the market for purchasing farmers' milk.

At the start of each season, we review Fonterra's methodology for calculating its base milk price, as set out in Fonterra's Farmgate Milk Price Manual. At the end of each season, we review Fonterra's base milk price calculation. This review assesses whether the costs, revenue and other assumptions used in the base milk price calculation provide an incentive for Fonterra to operate efficiently and are practically feasible for an efficient milk processor.

During 2022/23, we updated our approach papers for the Milk Price Manual and calculation review framework to strengthen our oversight of Fonterra's base milk price-setting arrangements. Our updated framework reflects the amendments to the Dairy Industry Restructuring (Fonterra Capital Restructuring) Amendment Act enacted in November 2022.

Dairy output measure	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	2	At least 2	2	At least 2	2	2

Commentary: The first report we published in September 2022 on Fonterra's calculation of the base milk price it would pay farmers in the 2021/22 dairy season concluded that Fonterra's calculation is likely to be consistent with both the efficiency and contestability purposes of DIRA. Our second report, published in December 2022 on Fonterra's Milk Price Manual for the 2022/23 dairy season, concluded that the 2022/23 Milk Price Manual was consistent with the statutory purpose set out in the DIRA.

Our dairy work is funded through Vote Business, Science and Innovation: Enforcement of Dairy Sector Regulation and Auditing of Milk Price Setting, and Commerce and Consumer Affairs: Enforcement of Dairy Sector Regulation and Monitoring of Milk Price Setting.

Dairy	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Operating revenue					
Revenue – Crown	824	757	602	757	628
Other revenue	14	3	7	4	8
Total operating revenue	838	760	609	761	636
Total operating expense	838	760	609	761	636
SURPLUS/(DEFICIT)	–	–	–	–	–

Expenditure in the dairy output class was higher than budget due to additional responsibilities given during the 2022/23 financial year.

Ture rāngai hoko kai
Grocery sector regulation

Contextual information

In preparation for the Grocery Industry Competition Act to be enacted, we received additional funding to prepare and establish New Zealand's grocery industry-specific competition regulatory regime.

This new regulatory regime aims to promote competition in the grocery sector for the benefit of all New Zealanders. The Commission's work and priorities for the grocery sector for the year ahead are structured around the long-term goal of ensuring that New Zealanders experience the benefits of competition when they do their grocery shopping, including factors like price, quality, range and convenience.

Grocery sector regulation output measure	2022/23 Actual	Target	2021/22 Actual	2020/21 Actual
The Commission is adequately prepared to implement the legislation when it comes into force	Achieved	Achieved	New measure	N/A

Commentary: In 2022/23, we established a grocery regulatory team ready to administer and enforce the requirements of the Grocery Industry Competition Act when it came into force in July 2023. We established a team with a mix of existing regulatory experience and industry knowledge to ensure regulated grocery retailers will be able to comply with the requirements of the new legislation.

We expect to publish our first annual report on competition in the grocery sector as early as June 2024.

Our grocery work is funded through Vote Business, Science and Innovation: Grocery Sector Regulation.

Grocery sector regulation	2022/23 Actual $000	Budget $000	2021/22 Actual $000
Operating revenue			
Revenue – Crown	3,575	–	–
Other revenue	71	–	–
Total operating revenue	3,646	–	–
Total operating expense	3,646	–	–
SURPLUS/(DEFICIT)	–	–	–

Grocery sector regulation expenditure had no budget set as it was a function given to the Commission after the beginning of the financial year.

Ngā wai
Water services

Contextual information

This output class is intended to achieve the preparation and implementation of the new economic regulation and consumer protection regime for water services. The measure below tracks our progress to prepare for implementing this new regulatory function.

In preparation for the enactment of the Water Services Entities Act and Water Services Economic Efficiency and Consumer Protection legislation, the Commission received additional funding part way through 2022/23 to begin preparation for its proposed role as the independent economic and consumer protection regulator of water services infrastructure.

The new regulatory regime aims to promote the long-term benefit of consumers of water infrastructure services by promoting outcomes consistent with those produced in competitive markets and provide for consumer protection. This includes developing a service quality code, monitoring of compliance with complaints processes and a review of the consumer dispute resolution service. The regime involves explicit requirements in relation to Te Tiriti o Waitangi, Te Mana o te Wai, and Treaty settlements, as well as additional obligations in relation to climate change.

Water services output measure	2022/23 Actual	Target	2021/22 Actual	2020/21 Actual
Progress preparatory work to meet relevant timelines	On track	Achieved	New measure	N/A

Commentary: In 2022/23, we established a water regulatory team to focus on building capability and understanding of the water sector, inputting into the legislative process, providing early scrutiny of one of the water services entities and relationship building with key stakeholders. The team has a mix of existing regulatory experience and industry knowledge to ensure we can develop the regime and that the new water services entities will be able to comply with the requirements of the new legislation. With the passage of the Water Services Economic Efficiency and Consumer Protection Act in August 2023, we move into developing the core components of the regime that need to be in place when the first water services entities are established from July 2024.

Our water services work is funded through the multi-category appropriation Vote Business, Science and Innovation: Enforcement of General Market Regulation – Transition and Implementation of Economic Regulation and Consumer Protection Regime of Three Waters.

Water services	2022/23 Actual $000	Budget $000	2021/22 Actual $000
Operating revenue			
Revenue – Crown	1,313	–	–
Other revenue	16	–	–
Total operating revenue	1,329	–	–
Total operating expense	1,217	–	–
SURPLUS/(DEFICIT)	112	–	–

Water expenditure had no budget set as it was a function given to the Commission after the beginning of the financial year.

Ngā take ture
Major litigation

Contextual information

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

We may undertake or be party to major litigation under the full range of legislation we have responsibility for enforcing. This includes defending challenges to our decision-making and powers.

Our litigation workload varies considerably each year, based on the:

- number and types of cases we choose to litigate or that are brought against us
- appeals we defend
- complexity of the cases we have before us
- court timetables
- approach taken by parties to the litigation.

Methodology

This litigation is unpredictable in terms of timing and size and may extend beyond the litigation activity we are able to manage routinely within our current functions and resourcing. We apply specific criteria to be able to use this funding. There have been no changes to the criteria.

Major litigation output measure	2022/23 Actual	Target	2021/22 Actual	Target	2020/21 Actual	2019/20 Actual
Litigation funds are utilised in accordance with the litigation fund criteria	Achieved	Achieved	Achieved	Achieved	Achieved	Achieved
Commentary: During 2022/23, nine new cases commenced to litigation using the major litigation fund. Of the total number of cases, five focused on consumer protection and the others on ensuring markets work well.						

Our major litigation work is funded through the multi-category appropriation Vote Business, Science and Innovation: Commerce Commission Litigation Funds consisting of Internally-Sourced Litigation and Externally-Sourced Litigation.

Internally sourced litigation

	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Commerce Commission Litigation Funds MCA					
Internally sourced litigation					
Operating revenue					
Revenue – Crown	5,421	5,585	4,817	5,201	4,376
Other revenue	218	31	134	35	55
Total operating revenue	5,639	5,616	4,951	5,236	4,431
Total operating expense	5,639	5,616	4,951	5,236	4,431
SURPLUS/(DEFICIT)	–	–	–	–	–

Externally sourced litigation

	2022/23 Actual $000	Budget $000	2021/22 Actual $000	Budget $000	2020/21 Actual $000
Commerce Commission Litigation Funds MCA					
Externally sourced litigation					
Operating revenue					
Revenue – Crown	2,623	8,500	2,594	8,000	2,994
Other revenue	–	–	–	–	–
Total operating revenue	2,623	8,500	2,594	8,000	2,994
Total operating expense	2,623	8,500	2,594	8,000	2,994
SURPLUS/(DEFICIT)	–	–	–	–	–

Major litigation is funded by the Crown out of the Vote Business, Science and Innovation: Commerce Commission Litigation Funds multi-category appropriation. 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 direct costs of resourcing major litigation activity externally. For our internally sourced litigation, we also receive a share of the revenue from shared services cost recoveries.

Externally sourced litigation expenditure was lower than anticipated because the Commission successfully reached settlements and resolved matters more quickly than expected. The number of matters entering the fund during the year were also fewer than anticipated. The budget for externally sourced litigation is based on known matters and potential cases at the start of the year.

Appropriation funding

	Estimates $000	Supplementary Estimates $000	Actual $000	Actual vs Supplementary Estimates $000
Commerce Commission Internally-Sourced Litigation				
Revenue – Crown	5,589	5,589	5,421	(168)
Commerce Commission Externally-Sourced Litigation				
Revenue – Crown	8,500	8,500	2,623	(5,877)
Total	14,089	14,089	8,044	(6,045)

Reconciliation of Output class results to the Statement of comprehensive revenue and expense

	2022/23 Revenue $000	Expenditure $000	Surplus/ (deficit) $000	2021/22 Revenue $000	Expenditure $000	Surplus/ (deficit) $000
Competition	12,230	12,265	(35)	13,584	12,316	1,268
Market studies (also known as competition studies)	2,639	2,639	–	2,717	2,717	–
Consumer (including fair trading and credit)	19,988	20,153	(165)	20,514	19,167	1,347
Telecommunications (including fibre)	12,328	12,328	–	13,357	13,357	–
Electricity line services	6,840	6,840	–	6,226	6,226	–
Gas pipeline services	3,038	3,038	–	3,699	3,699	–
Specified airport services	665	665	–	372	372	–
Input methodologies	5,165	5,165	–	423	423	–
Fuel	5,411	3,778	1,633	3,364	2,908	456
Retail Payment Systems	4,670	4,257	413	–	–	–
Dairy	838	838	–	609	609	–
Grocery sector regulation	3,646	3,646	–	–	–	–
Water services	1,329	1,217	112	–	–	–
Internally sourced litigation	5,639	5,639	–	4,951	4,951	–
Externally sourced litigation	2,623	2,623	–	2,594	2,594	–
	87,049	85,091	1,958	72,410	69,339	3,071
Net operating surplus from Statement of comprehensive revenue and expense						
			1,958			3,071

Refer to page 146.


BANK
ATM

06

Te taha pūtea
Our finances

Key topics:

- Financial statements overview
- Statement of responsibility
- Independent auditor's report
- Financial statements
- Statement of accounting policies
- Notes to the financial statements
- Financial statements glossary

Tirohanga whānui ki ngā tauākī pūtea
Financial statements overview

The Commission's financial results and our financial position show we are well placed to play our part in ensuring our market works well and consumers and businesses are confident market participants as we navigate the fiscally constrained environment.

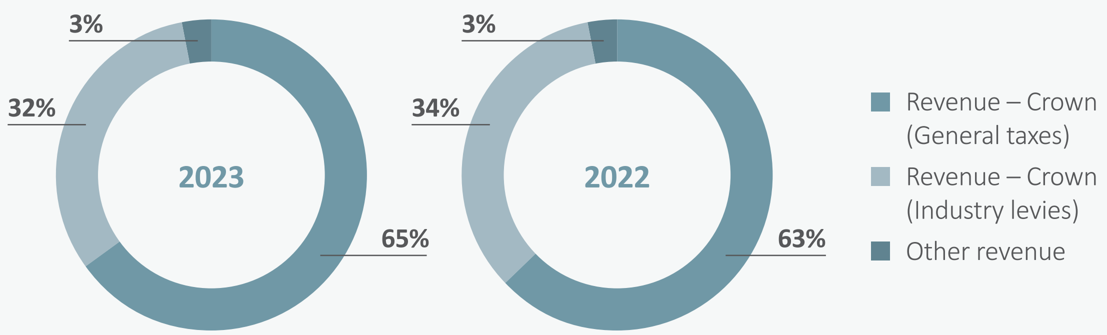
This section provides an overview of our financial statements for the year ended 30 June 2023.

Revenue

The Commission recorded revenue of $87.0 million for 2022/23, compared to $72.4 million for 2021/22. Much of our Crown-sourced revenue has restrictions limiting the revenue recognised to the extent that expenditure has been incurred. If the Commission has received more funding from the Crown for levy funded activities than it has incurred in expenditure over the duration of that appropriation (either annual or multi-year), the additional amount will be returned to the Crown.

The largest revenue contribution is from the Crown, through a combination of general taxes and industry levies (which pay for the regulation of specific businesses, for instance, electricity lines businesses). Other sources of revenue include interest on cash held, court cost awards from litigation, and application fees paid by businesses seeking clearances and other determinations.

Revenue contribution

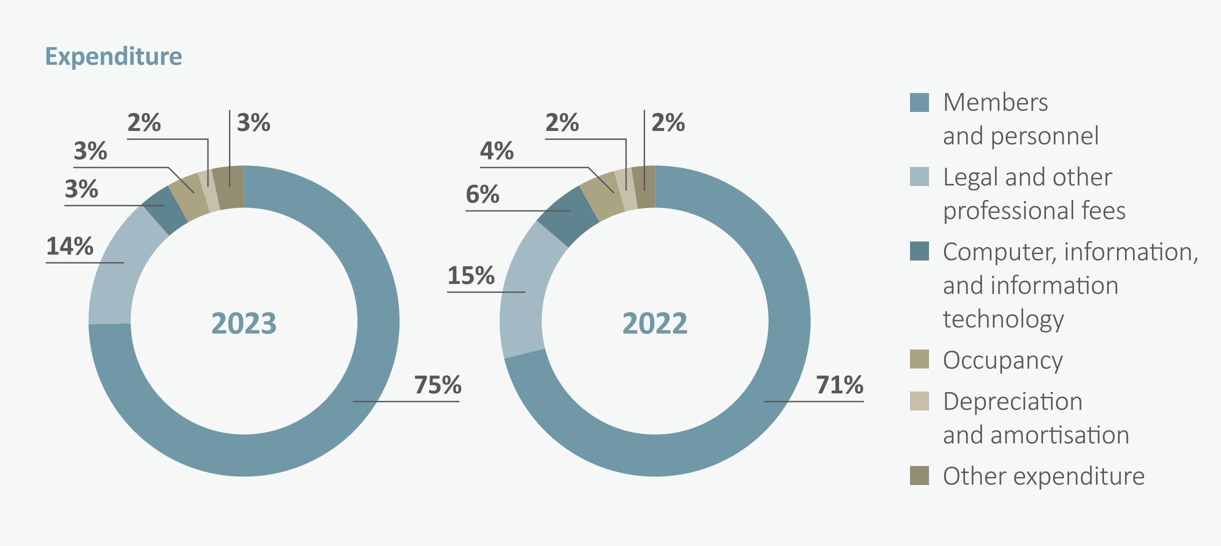


Crown funding through appropriation provides the Commission the resources to complete its many functions. The funding is a maximum amount that may be spent (excluding revenue from other sources) for each function. Budgets are developed to ensure that the Commission operates within funding limits.

In 2023, Crown funding sourced from industry levies comprised 32% of Commission revenue, compared to 34% in 2022. This is mainly due to a $10.6 million increase in Crown funding from general taxation.

Expenditure

This year the Commission spent $85.1 million, compared to a budgeted spend of $92.6 million and a prior year spend of $69.3 million. Expenditure on Personnel was up significantly on last year as our work programme required recruitment of additional staff, both permanent and temporary to establish new functions (for example, Grocery sector regulation).



The nature of the Commission's work meant that wages and salaries made up three quarters of our 2022/23 total operating expenses. This percentage increased slightly from 2021/22 and prior years, reflecting the increasing workforce size to manage additional functions and responsibilities.

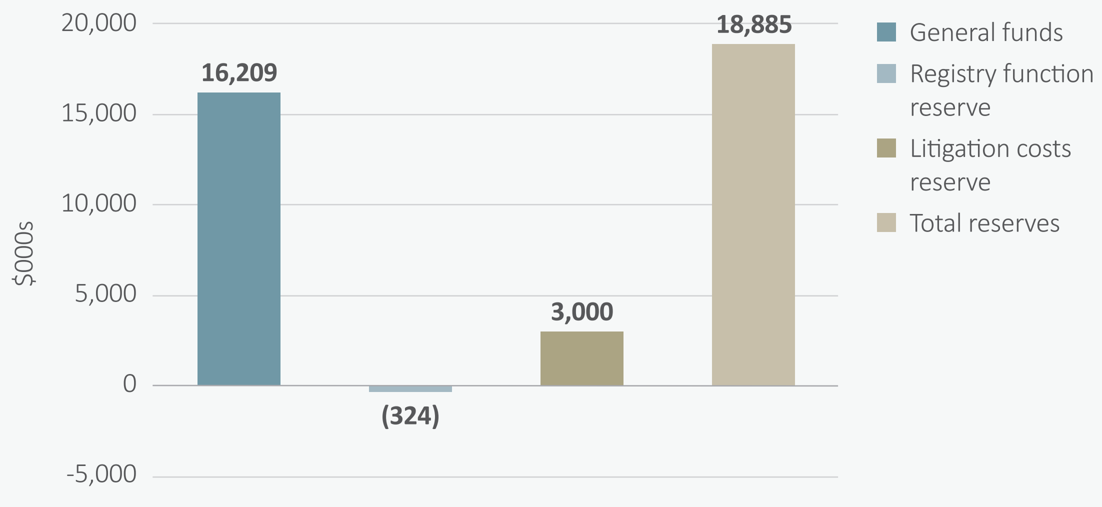
Expenditure on occupancy costs, computer and information technology decreased mainly due to a one-off write-off of Software-as-a-service related software configuration expenditure in 2021/22. External legal and other professional fees have increased slightly compared to 2021/22 but make up a smaller percentage of our total operating expenses.

Financial position

The Commission maintains reserves at a level that allows us to manage operational and litigation risks. These risks are diverse but can involve significant, unanticipated expenditures in a relatively short timeframe. For instance, if we lose a large multi-party litigation case, we may have to pay sizeable adverse cost awards to the successful parties. We may also have to incur unplanned expenditure on a Part 4 inquiry or a large merger clearance or authorisation (including legal costs), while delivering business-as-usual activities.

The Commission's equity (or reserves) as at 30 June 2023 was $18.9 million, an increase of $2.0 million from 30 June 2022. The increase in equity resulted from net surpluses from surpluses in fuel, retail payment systems and water services output classes, partially offset by a small deficit in the consumer output class.

Commission reserves as at 30 June 2023



We expect equity will reduce in 2023/24 as a result of the budgeted $1.7 million[37] deficit for transitional work in the Water services function. The Commission's 2023/24 budget provides for investments in operations to improve our effectiveness and impact. This, along with the net surplus from this financial year, will fund expected increases in expenditure on regulating the grocery sector, and establishment work related to economic regulation and consumer protection functions for water services entities.

The Commission's reserves are made up of three components. The first is a litigation costs reserve, which is a separate, ring-fenced reserve to help the Commission meet the costs payable in losing a significant litigation case (a contribution towards the costs of the successful, party). The second is our General Fund, which manages broader operational risks (including where the litigation costs reserve is insufficient), and also allows us to invest in fixed and intangible assets. The third is a registry function reserve, established to collect the accumulated surpluses and deficits of processing fit and proper person applications under the Credit Contracts and Consumer Finance Act.

37 Refer to our 2023-2024 Statement of Performance Expectations: **https://comcom.govt.nz/__data/assets/pdf_file/0019/321733/Statement-of-Performance-Expectations-20232F24.pdf**

Tauākī Haepapatanga
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, whether or not that information is included in the Commission's Annual Report.

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 2023.

Statement of compliance

The service performance information has been prepared in accordance with the Public Benefit Entity Financial Reporting Standard 48 Service Performance Reporting.

Signed on behalf of the Board:

[redacted]

Dr John Small
Commerce Commission Chair
31 October 2023

[redacted]

Anne Callinan
Commerce Commission Deputy Chair
31 October 2023

AUDIT NEW ZEALAND
Mana Arotake Aotearoa

Independent Auditor's Report

To the readers of Commerce Commission's financial statements and performance information for the year ended 30 June 2023

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 146 to 167, that comprise the statement of financial position as at 30 June 2023, the statement of comprehensive revenue and expenses, 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 which reports against the Commission's statement of performance expectations and appropriations for the year ended 30 June 2023 on pages 91 to 134.

In our opinion:

- the financial statements of the Commission:
  - present fairly, in all material respects:
    - its financial position as at 30 June 2023; 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 Commission' performance information for the year ended 30 June 2023:
  - presents fairly, in all material respects, 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;

    - presents fairly, in all material respects, for the appropriations:
        - what has been achieved with the appropriations; and
        - the actual expenses or capital expenditure incurred as compared with the expenses or capital expenditure appropriated or forecast to be incurred; and
    - complies with generally accepted accounting practice in New Zealand.

Our audit was completed on 31 October 2023. 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 are 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 are responsible for such internal control as they determine is necessary to enable them 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 are responsible on behalf of the Commission for assessing the Commission's ability to continue as a going concern. The Board are 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 performance information which reports against the Commission's statement of performance expectations and appropriations.

- 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 are responsible for the other information. The other information comprises the information included in the Chair and Chief Executive's foreword to page 169 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: International Code of Ethics for Assurance Practitioners (including International Independence Standards) (New Zealand) (PES 1) issued by the New Zealand Auditing and Assurance Standards Board.

Effective June 2023 and subsequently, the independent Chair of the Commission's Audit and Risk Committee is also the independent Chair of the Auditor-General's Audit and Risk Committee. The Auditor-General's Audit and Risk Committee is regulated by a Charter that specifies that it provides independent advice to the Auditor-General and does not assume any management functions. There are appropriate safeguards to reduce any threat to auditor independence, as a member of the

Auditor-General's Audit and Risk Committee (when acting in this capacity) has no involvement in, or influence over, the audit of the commission.

Other than the audit and the relationship with the Auditor-General's Audit and Risk Committee, we have no relationship with, or interests, in the Commission.

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

Karen Young

Karen Young
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

Ngā tauākī pūtea
Financial statements

Statement of comprehensive revenue and expense

for the year ended 30 June 2023

	Notes	2022/23 Actual $000	2022/23 Budget $000	2021/22 Actual $000
Operating revenue				
Revenue from non-exchange transactions				
Revenue – Crown		84,585	91,580	70,132
Court cost awards		9	50	60
Total revenue from non-exchange transactions		**84,594**	**91,630**	**70,192**
Revenue from exchange transactions				
Fees and recoveries		443	513	1,306
Interest		1,596	300	404
Other revenue		416	95	508
Total revenue from exchange transactions		**2,455**	**908**	**2,218**
Total operating revenue		**87,049**	**92,538**	**72,410**
Operating expenses				
Members and personnel	1	63,548	60,440	49,322
Legal and other professional fees	2	11,778	22,418	10,446
Computer, information, and information technology		2,823	3,442	3,932
Occupancy	3	2,831	2,846	2,688
Depreciation and amortisation		1,247	1,585	1,258
Other expenditure	4	2,864	1,895	1,693
Total operating expenses		**85,091**	**92,626**	**69,339**
Net operating surplus/(deficit) for the year		**1,958**	**(88)**	**3,071**
Total comprehensive revenue and expense		**1,958**	**(88)**	**3,071**

The accompanying statement of accounting policies and notes to the financial statements on pages 150–167 form part of the financial statements.

Statement of changes in equity

for the year ended 30 June 2023

	Notes	2022/23 Actual $000	2022/23 Budget $000	2021/22 Actual $000
Balance at 1 July		**16,927**	**16,331**	**16,856**
Comprehensive revenue and expense				
Net operating surplus/(deficit)		1,958	(88)	3,071
Total comprehensive revenue and expense		**1,958**	**(88)**	**3,071**
Transactions with owner				
Repayment of reserves to the Crown		0	0	(3,000)
Total transactions with owner		**0**	**0**	**(3,000)**
Balance at 30 June		**18,885**	**16,243**	**16,927**

The accompanying statement of accounting policies and notes to the financial statements on pages 150–167 form part of the financial statements.

Statement of financial position

as at 30 June 2023

	Notes	2022/23 Actual $000	2022/23 Budget $000	2021/22 Actual $000
Equity				
General funds	5	16,209	12,799	14,230
Registry function reserve	5	(324)	444	(303)
Litigation cost reserve	5	3,000	3,000	3,000
Total equity		**18,885**	**16,243**	**16,927**
Current assets				
Cash and cash equivalents	6	2,293	5,008	4,437
Fees and recoveries receivable		351	290	390
Short-term investments		34,000	15,000	25,000
Prepayments		2,137	1,405	1,231
Total current assets		**38,781**	**21,703**	**31,058**
Non-current assets				
Property, plant and equipment	7	2,953	1,967	3,398
Intangibles	8	63	481	104
Total non-current assets		**3,016**	**2,448**	**3,502**
Total assets		**41,797**	**24,151**	**34,560**
Current liabilities				
Creditors and other payables	9	1,964	1,984	1,513
Accrued expenses		1,572	954	1,167
Lease incentive		170	170	170
Penalties and cost awards held in trust	10	0	50	183
Crown funding repayable	11	13,651	5	9,805
Employee entitlements	12	5,045	4,235	4,115
Total current liabilities		**22,402**	**7,398**	**16,953**
Non-current liabilities				
Lease incentive		510	510	680
Total non-current liabilities		**510**	**510**	**680**
Total liabilities		**22,912**	**7,908**	**17,633**
Net assets		**18,885**	**16,243**	**16,927**

The accompanying statement of accounting policies and notes to the financial statements on pages 150–167 form part of the financial statements.

Statement of cash flows

for the year ended 30 June 2023

	Notes	2022/23 Actual $000	2022/23 Budget $000	2021/22 Actual $000
Cash flows from operating activities				
Crown funding received		101,686	91,585	85,358
Fees and recoveries received		1,039	658	1,710
Receipts and prepayment of penalties (net)		(183)	0	88
Interest received		1,438	239	246
Commissioners, Associates and personnel payments		(62,387)	(59,891)	(48,552)
Supplier payments		(20,841)	(30,753)	(17,966)
Repayment of Crown funding		(13,255)	(5,291)	(6,896)
Goods and services tax (net)		123	95	174
Net cash inflow/(outflow) from operating activities	13	**7,620**	**(3,358)**	**14,162**
Cash flows from investing activities				
Investments (deposits)/receipts		(9,000)	4,000	(17,000)
Property, plant and equipment purchases		(764)	(800)	(1,567)
Intangible asset purchases		0	0	(242)
Net cash (outflow)/inflow from investing		**(9,764)**	**3,200**	**(18,809)**
Cash flows from financing activities				
Repayment of reserves		0	0	(3,000)
Net cash outflow from investing		**0**	**0**	**(3,000)**
Net decrease in cash and cash equivalents		**(2,144)**	**(158)**	**(7,647)**
Opening cash and cash equivalents		4,437	5,166	12,084
Closing cash and cash equivalents	6	**2,293**	**5,008**	**4,437**

The Goods and services tax (net) component of operating activities reflects the net GST paid and received from the Inland Revenue (IR). 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 150–167 form part of the financial statements.

Tauākī kaupapa kaute
Statement of accounting policies

for the year ended 30 June 2023

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 Aotearoa New Zealand public, rather than 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, the Credit Contracts and Consumer Finance Act 2003, the Fuel Industry Act 2020, the Retail Payment System Act 2022, the Water Services Entities Act 2022, and the Grocery Industry Competition Act 2023.

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 (NZ XRB), because we are a public entity as defined in the Public Audit Act 2001.

Measurement base and statement of compliance

These financial statements comply with the requirements of the Crown Entities Act and are prepared on a historical cost basis for a going concern in accordance with New Zealand generally accepted accounting practice (GAAP) to comply with Tier 1 PBE accounting standards. The Commission authorised the financial statements for issue on 31 October 2023.

Functional and presentation currency

The Commission's functional and presentation currency is New Zealand dollars, and all numbers are rounded to the nearest thousand dollars ($000).

Significant accounting policies

The accounting policies that significantly affect the measurement of comprehensive revenue and expenditure, financial position and cash flows were applied 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 (for example, 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 Market 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 that 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 is 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:

Computer and office equipment	Up to 5 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 Inland Revenue 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 Aotearoa New Zealand-registered banks.

Investments – Investments are term deposits issued by Aotearoa New Zealand-registered banks with maturities of more than 90 days. Investments are initially recognised and measured at fair value, usually the amount invested. After initial recognition, investments are measured at amortised cost. A loss allowance for expected credit losses is recognised if the estimated loss allowance is not trivial.

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 to maintain 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 due 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 that 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 complete. Therefore, the possibility of a costs award being incurred or received is disclosed firstly as either a contingent liability or a contingent asset, respectively. An award for costs, whether for or against the Commission, is only recognised in the statement of comprehensive revenue and expense when it is probable that there will be a payment or receipt of agreed costs that can be measured 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. The budget complies with GAAP and uses accounting policies consistent with those 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

Changes to accounting standards in the 2022/23 Annual Report include the adoption of PBE IPSAS 41 Financial Instruments and PBE IFRS 48 Service Performance Reporting.

PBE IPSAS 41 Financial Instruments replaces PBE FRS 9 Financial Instruments that establishes new requirements for the recognition, measurement, presentation, and disclosure of financial assets and financial liabilities. No new information has been disclosed as the requirements in PBE IPSAS 41 are similar to those contained in PBE IFRS 9.

PBE FRS 48 Service Performance Reporting is a new standard which establishes new requirements for the selection and presentation of service performance information. Additional information provided in the 2022/23 Annual Report includes linkages between financial and non-financial information, as well as the following:

- sufficient contextual information to understand why the entity exists, what it intends to achieve in broad terms over the medium to long term, and how it goes about this, and
- information about what the entity has done during the reporting period in working towards its broader aims and objectives.

The XRB has issued the following reporting standards/amendments which are applicable to the Commission and not yet effective for the financial year ended 30 June 2023:

An amendment to *PBE IPSAS 1 Presentation of Financial Reports* effective for the year ending 30 June 2024 requires entities to describe services provided by its audit or review firms to disclose the fees incurred by the entity for those services using prescribed categories. The prescribed categories include the audit or review of the entity's financial report and other type of services. We have assessed the impact of applying this amendment to be minor.

He kōrero tāpiri ki ngā tauākī pūtea
Notes to the financial statements

for the year ended 30 June 2023

1. Commissioners, Associates and personnel

	2022/23 Actual $000	2021/22 Actual $000
Salaries and wages (including annual leave and other entitlements)	52,493	42,855
Defined contribution plan employer contributions	2,038	1,116
Recruitment	603	618
Professional development	641	464
Contractors and Temporary staff	7,235	3,956
Other employment-related costs	538	313
Total Commissioners, Associates and personnel expenditure	**63,548**	**49,322**

Employer contributions to defined contribution plans include payments to KiwiSaver.

2. Legal and other professional fees

	2022/23 Actual $000	2021/22 Actual $000
Legal consultants	4,606	4,225
Other consultants and experts	5,661	5,079
Specialist support services	1,509	1,140
Other expenses	2	2
Total legal and other professional fees	**11,778**	**10,446**

3. Occupancy

	2022/23 Actual $000	2021/22 Actual $000
Operating leases – rent	2,346	2,281
Other occupancy expenses	485	407
Total occupancy	**2,831**	**2,688**

4. Other expenditure

	2022/23 Actual $000	2021/22 Actual $000
Telecommunications	527	535
Travel	1,205	316
Postage, photocopying and stationery	117	105
Publications and knowledge sharing	199	58
Loss on disposal of assets	4	24
Audit fees for financial statement audit	81	76
Other expenses	731	579
Total other expenditure	**2,864**	**1,693**

With the re-opening of the country after the COVID-19 pandemic, the Commission's travel has increased in line with a return to normal activities.

5. Equity

The Commission's surplus for the year of $2.0 million (2022: surplus of $3.1 million) flows to our general funds and registry function reserve which equals the Commission's total comprehensive revenue and expenses for the year. In 2022/23 there were no movements in the litigation costs reserve, which is a separate reserve with a maximum balance of $3.0 million.

General funds

	2022/23 Actual $000	2021/22 Actual $000
Balance at 1 July	**14,230**	**13,856**
Total comprehensive revenue and expense attributable	1,979	3,374
Less reserves paid to the Crown	0	(3,000)
Balance at 30 June	**16,209**	**14,230**

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. During the prior year, the Commission repaid $3.0 million in reserves back to the Crown. The Commission is allowed to retain surpluses from our competition, consumer, fuel, retail payment systems, and water services output classes.

Registry function reserve

	2022/23 Actual $000	2021/22 Actual $000
Balance at 1 July	**(303)**	**0**
Total comprehensive revenue and expense attributable	(21)	(303)
Balance at 30 June	**(324)**	**(303)**

The registry function reserve was established in the financial year ending 30 June 2022 to collect the accumulated surpluses and deficits of processing fit and proper person applications under the Credit Contracts and Consumer Finance Act. The cost of operating the registry function is intended to break even over the five-year certification horizon.

Litigation cost reserve

	2022/23 Actual $000	2021/22 Actual $000
Balance at 1 July	**3,000**	**3,000**
Total comprehensive revenue and expense attributable	0	0
Balance at 30 June	**3,000**	**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.

6. Cash and cash equivalents

	2022/23 Actual $000	2021/22 Actual $000
Cash on hand and at bank	2,293	4,195
Cash held in trust	0	242
Balance at 30 June	**2,293**	**4,437**

While cash and cash equivalents at 30 June 2023 are subject to the expected credit loss requirements of PBE IPSAS 41, no loss allowance has been recognised because the estimated loss allowance for credit losses is trivial.

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 2021	**3,364**	**1,249**	**3,796**	**51**	**8,460**
Additions	1,245	149	173	0	1,567
Disposals	(418)	(104)	0	0	(522)
Balance at 30 June 2022	**4,191**	**1,294**	**3,969**	**51**	**9,505**

	Computer and office equipment $000	Furniture and fittings $000	Leasehold improvements $000	Motor vehicles $000	Total $000
Balance at 1 July 2022	**4,191**	**1,294**	**3,969**	**51**	**9,505**
Additions	543	222	0	0	765
Disposals	(243)	(17)	0	0	(260)
Balance at 30 June 2023	**4,491**	**1,499**	**3,969**	**51**	**10,010**

Property, plant and equipment not yet commissioned at 30 June 2023 totalled $nil (2022: $nil).

Accumulated 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 2021	**2,441**	**1,026**	**1,992**	**46**	**5,505**
Depreciation expense	641	83	387	5	1,116
Elimination on disposal	(411)	(103)	0	0	(514)
Balance at 30 June 2022	**2,671**	**1,006**	**2,379**	**51**	**6,107**

	Computer and office equipment $000	Furniture and fittings $000	Leasehold improvements $000	Motor vehicles $000	Total $000
Balance at 1 July 2022	**2,671**	**1,006**	**2,379**	**51**	**6,107**
Depreciation expense	681	124	401	0	1,206
Elimination on disposal	(240)	(16)	0	0	(256)
Balance at 30 June 2023	**3,112**	**1,114**	**2,780**	**51**	**7,057**

Carrying amounts

	Computer and office equipment $000	Furniture and fittings $000	Leasehold improvements $000	Motor vehicles $000	Total $000
As at 1 July 2021	923	223	1,804	5	2,955
As at 30 June and 1 July 2022	1,520	288	1,590	0	3,398
Balance at 30 June 2023	**1,379**	**385**	**1,189**	**0**	**2,953**

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

The Commission holds licences for software, including certain applications that have restrictions on their use. No intangible assets are pledged as security for liabilities.

Cost

	Acquired software $000	Total $000
Balance at 1 July 2021	**4,710**	**4,710**
Additions	117	117
Disposals	(4,479)	(4,479)
Balance at 30 June 2022	**348**	**348**

	Acquired software $000	Total $000
Balance at 1 July 2022	**348**	**348**
Additions	0	0
Disposals	(2)	(2)
Balance at 30 June 2023	**346**	**346**

The Intangible Asset Register was reviewed for software-as-a-service (SaaS) arrangements that do not meet the requirements for capitalisation, following recent clarification released by the IFRS Interpretations Committee in an Agenda Decision.[38] This resulted in the write-off of intangible assets with a total cost of $2.3 million effective 1 July 2021. The expense on write-off of these intangible assets was included in the Commission's computer, information, and information technology expense in the year to 30 June 2022.

Additionally, other intangible assets with a total cost of $2.2 million were disposed of during the year to 30 June 2022 due to no longer being in use.

38 As the Public Sector accounting standards applied by the Commission are closely related to IFRS, we need to consider IFRS Agenda Decisions as an authoritative source for our application of NZ PBE ISPSAS 31 Intangible Assets.

Accumulated amortisation and impairment losses

	Acquired software $000	Total $000
Balance at 1 July 2021	**3,509**	**3,509**
Amortisation expense	142	142
Disposals	(3,407)	(3,407)
Balance at 30 June 2022	**244**	**244**

	Acquired software $000	Total $000
Balance at 1 July 2022	**244**	**244**
Amortisation expense	41	41
Disposals	(2)	(2)
Balance at 30 June 2023	**283**	**283**

Carrying amounts

	Acquired software $000	Total $000
At 1 July 2021	1,201	1,201
At 30 June and 1 July 2022	104	104
Balance at 30 June 2023	**63**	**63**

9. Creditors and other payables

	2022/23 Actual $000	2021/22 Actual $000
Payables under exchange transactions		
Creditors	526	385
Total payables under exchange transactions	**526**	**385**
Payables under non-exchange transactions		
PAYE and other taxes withheld for payment to the Crown	827	596
Goods and services tax payable to the Crown	611	533
Total payables under non-exchange transactions	**1,438**	**1,129**
Total creditors and other payables	**1,964**	**1,513**

10. Penalties and cost awards held in trust

	2022/23 Actual $000	2021/22 Actual $000
Balance at the beginning of the year	**183**	**95**
Court cost awards compensation received (or recognised as receivable) and interest earned	2,752	10,049
Infringement fees received (or receivable) and paid to the Crown (net)	0	0
Court cost awards, compensation, and interest paid out	(2,935)	(9,961)
Balance at the end of the year	**0**	**183**

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 the total cost of the case is known. Interest is earned and paid on all cost awards and settlements received.

Components of penalties and cost awards held in trust

	2022/23 Actual $000	2021/22 Actual $000
Infringement fees due to the Crown (including receivable)	0	0
Court cost awards and compensation due to Crown or other parties	0	183
Balance at the end of the year	**0**	**183**

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

Where there are cases involving several parties, settlements can be received from some parties while others continue to defend. As a result, reliable estimates of total cost awards or settlements due to the Crown are not possible. These estimates 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 that equals any cost awards received for that case. Once a case is finished and the total cost of the case and funds to distribute are known, the amount receivable and the amount due to the Crown are recognised, instead of a provision.

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

Infringement fees received are paid to the Crown every four months.

11. Crown funding repayable

	2022/23 Actual $000	2021/22 Actual $000
Dairy	925	178
Electricity line services	2,124	2,093
Fibre*	0	526
Fuel	0	575
Gas pipeline services	988	777
Grocery sector regulation	1,396	0
Input methodologies	627	95
Major litigation	3,501	1,721
Market studies (also known as competition studies)	633	515
Part 4 inquiries (Economic regulation inquiries)	0	1,150
Specified airport services	286	760
Telecommunications (including fibre)*	2,826	0
Telecommunications*	0	1,415
Water services	345	0
Total Crown funding repayable	**13,651**	**9,805**

The Commission receives funding from the Crown via appropriations. This funding is recognised as revenue only to the extent that expenditure is incurred in the output classes we are funded for. Where there is a difference between the funding received and the amount of revenue subsequently recognised, that difference is recognised as a Crown funding repayable liability and must be repaid to the Crown. The above note provides a breakdown of our Crown funding repayable liability by output class.

* Funding for fibre and telecommunications output classes were previously under two separate appropriations. From 1 July 2022, the two separate appropriations are combined as one appropriation (Regulation of Telecommunications Services 2022–2025) to fund fibre and telecommunications output classes.

12. Employee entitlements

	2022/23 Actual $000	2021/22 Actual $000
Accrued salaries and wages	1,640	1,017
Annual leave	3,255	2,918
Accrued performance and at-risk incentives	150	180
Total employee entitlements	**5,045**	**4,115**

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

	2022/23 Actual $000	2021/22 Actual $000
Operating surplus for the year	**1,958**	**3,071**
Non-cash items		
Depreciation and amortisation	1,247	1,258
Lease incentives recognised	(170)	(170)
Total non-cash items	**1,077**	**1,088**
Items classified as investing or financing activities		
Loss on sale of property, plant and equipment	3	1,080
Total items classified as investing or financing activities	**3**	**1,080**
Change in statement of financial position items		
Fees and recoveries receivable	39	393
Prepayments	(906)	(37)
Creditors and other payables	451	411
Accrued expenses	405	(314)
Crown funding repayable	3,846	7,709
Penalties and cost awards held in trust	(183)	88
Employee entitlements	930	673
Total change in statement of financial position items	**4,582**	**8,923**
Net cash inflows from operating activities	**7,620**	**14,162**

14. Critical accounting judgements and estimates

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

- all specific accounting policies needed to properly understand these financial statements are disclosed
- all adopted accounting policies are appropriate
- all accounting policies were applied consistently throughout the year.

When applying the accounting policies, the Commission is required to make certain judgements and estimates.

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 significant 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 2023 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 2023 (see note 15).

15. Contingent liabilities and assets

The Commission regularly has several matters before the court that 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, Credit Contracts and Consumer Finance Act, sections 80E, 82B, 86B, 87B, 100 and 103 of the Commerce Act and the Crimes 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 2023

There are no contingent liabilities.

Contingent liabilities as at 30 June 2022

There were no contingent liabilities.

Contingent assets as at 30 June 2023

There were are contingent assets.

Contingent assets as at 30 June 2022

There were no contingent assets.

16. Financial instruments

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

Monetary assets

	2022/23 Actual $000	2021/22 Actual $000
Financial assets measured at amortised cost		
Cash and cash equivalents	2,293	4,437
Fees and recoveries receivable	351	390
Short-term investments	34,000	25,000
Total monetary assets	**36,644**	**29,827**

Monetary liabilities

	2022/23 Actual $000	2021/22 Actual $000
Financial liabilities measured at amortised cost		
Creditors	1,964	1,513
Penalties and cost awards held in trust	0	183
Crown funding repayable	13,651	9,805
Total monetary liabilities	**15,615**	**11,501**

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 (for example, cash) available, leading to difficulty in making debt payments on their due date. As Crown funding is received quarterly in advance and the Commission actively manages its cash position, 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 that 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 Aotearoa New Zealand-registered banks with a Standard & Poor's credit rating of AA or higher. 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 Aotearoa 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 2023 and 30 June 2022. The average interest rate on interest-bearing term deposits over the year was 3.34% (2022: 1.12%). A 1% (100 basis points) change in interest rates, with all other factors unchanged, would change interest earnings by $259,400 (2022: $287,400).

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. With all other factors unchanged, a 10% increase in exchange rates would decrease expenditure by $109,600 (2022: $106,900), while a 10% decrease in exchange rates would increase expenditure by $133,900 (2022: $113,900).

17. Operating (non-cancellable) leases

Operating (non-cancellable) lease payments due

	2022/23 Actual $000	2021/22 Actual $000
Within 1 year	2,399	2,523
Within 1 to 2 years	2,353	1,885
Within 2 to 5 years	3,344	4,932
After 5 years	0	0
Total operating (non-cancellable) leases due	**8,096**	**9,340**

The future operating (non-cancellable) lease payments consists of the contractual amounts due for leased premises, car parks and office equipment, being the monthly rent plus our share of operating expenses.

The Commission leases offices in Auckland and Wellington. The Wellington lease is due for renewal in 2027 with the right to renew for a further term of six years. There are three leases for the Auckland office. One of the Auckland leases is due to expire in 2025. The other two leases are due for renewal in 2025 with the right to renew for a further term of four years. The Commission will not make any decisions on renewal in Wellington and Auckland until closer to the initial term expiry.

18. Capital expenditure commitments

	2022/23 Actual $000	2021/22 Actual $000
Furniture and fittings	22	144
Leasehold improvements	0	0
Total capital expenditure commitments	**22**	**144**

19. Related party transactions

The Commission is an independent Crown entity, primarily monitored by the Ministry of Business, Innovation and Employment on behalf of the Minister of Commerce and Consumer Affairs and the Minister for Digital Economy and Communications.

Related party transactions with other government entities (for example, 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 have not been disclosed.

There were no other related party transactions during the year.

Key management personnel

	2022/23 Actual $000	2021/22 Actual $000
Commissioners and Associates remuneration	3,476	3,316
Senior Leadership Team remuneration	2,878	2,542
Total key management personnel remuneration	**6,354**	**5,858**

	2022/23 Actual No. of FTEs	2021/22 Actual No. of FTEs (Restated)
Commissioners and Associates	7.7	7.4
Senior Leadership Team	10	8.3
Total key management personnel full-time equivalents	**17.7**	**15.7**

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

20. 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 of 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.

21. 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. Several financially insignificant matters have been progressed or finalised by 31 October 2023. Significant matters are disclosed below.

NGB Proprties Limited In July 2023, NGB Properties Limited (NGB) has been penalised $500,000 after the Commerce Commission took court action over an anti-competitive covenant that it placed on a site close to Mitre 10 MEGA Tauranga, for the purpose of preventing competitor Bunnings from opening a Bunnings Warehouse in the area. NGB is the sister company of Juted Holdings Limited, which operates the Mitre 10 MEGA in Tauranga. Once received, the penalty payment will be transferred to the Crown via the Ministry of Business, Innovation and Employment. This will be a non-adjusting event after the reporting period.

One NZ (formerly Vodafone NZ) On 11 August 2023, the High Court allowed the Commission's appeal against the original fine of $2.25 million imposed by the District Court in 2022. The High Court agreed that a larger penalty of $3.67 million was required to ensure it "stings" from One NZ's perspective and serves as a deterrent, given One NZ's history of non-compliance with the Fair Trading Act, as well as the size and financial resources of the business. One NZ was found guilty of misleading consumers into believing its FibreX service was the fibre-to-home broadband, and falsely suggesting to consumers that FibreX was the only available broadband services at their addresses. Once received, the penalty payment will be transferred to the Crown via the Ministry of Business, Innovation and Employment. This will be a non-adjusting event after the reporting period.

22. Explanation of significant variances against budget

Significant variations from the budgeted figures in the Statement of Performance Expectations 2022/23 are set out in the table below. Explanations for each variance are found on the following page.

	Notes	2022/23 Actual $000	2022/23 Budget $000	Variance $000
Statement of comprehensive revenue and expense				
Revenue – Crown	1	84,585	91,580	(6,995)
Interest	2	1,596	300	1,296
Members and personnel	3	63,548	60,440	3,108
Legal and other professional fees	4	11,778	22,418	(10,640)
Other expenditure	5	2,864	1,895	969
Statement of financial position				
General funds	6	16,209	12,799	3,410
Cash and cash equivalents	7	2,293	5,008	(2,715)
Short-term investments	8	34,000	15,000	19,000
Crown funding repayable	9	13,651	5	13,646
Statement of cash flows				
Crown funding received	10	101,686	91,585	10,101
Commissioners, Associates and personnel payments	11	(62,387)	(59,891)	(2,496)
Supplier payments	12	(20,841)	(30,753)	9,912
Repayment of Crown funding	13	(13,255)	(5,291)	(7,964)
Investment (deposits)/receipts	14	(9,000)	4,000	(13,000)

Explanatory notes

1) Crown-sourced revenue was $7.0 million lower than budget mainly due to underspends in Part 4 inquiries and telecommunication (including fibre) output classes and major litigation ($5.9 million), which was offset by expenditure on additional grocery and water services functions, which were added after the budget was approved.
2) Interest revenue exceeded budget by $1.3 million due to improved interest rates on term deposits.
3) Commissioners, Associates and personnel expenses were $3.1 million higher than budget mainly due to increased staff levels associated with overall organisational growth, and addition of new regulation functions.
4) Legal and other professional fees were $10.6 million lower than budget due to lower litigation related expenditure as a result of several factors including but not limited to cases settling and slower progress through the courts than anticipated, along with lower than budgeted expenditure on Part 4 inquiries and telecommunications output classes.
5) Other expenditure costs were $1.0 million higher than budget due primarily to the increase in travel, which is a return to pre-COVID levels.
6) General funds exceeded budget by $3.4 million due to the surpluses in both current and prior year.
7) Cash and cash equivalents were $2.7 million lower than budget primarily due to more cash being invested in short-term investments.
8) Short term investments were $19.0 million greater than budget as a result of having more funds invested in term deposits at year end.
9) Crown funding repayable was $13.6 million greater than budget mainly because funding received for Part 4, Telecommunications and External Litigation output classes was greater than expenditure against those output classes. Refer to Note 6 of the Financial Statements for further details.
10) Crown-sourced revenue was $10.1 million greater than budget, mainly due to the growth in Commission functions (for example, grocery sector regulation and water services) which were unbudgeted.
11) Commissioners, Associates and personnel payments were $2.5 million greater than budget due to increased staff levels associated with overall organisational growth, and addition of new functions (see variance explanation 3 above).
12) Supplier payments were $9.9 million less than budget due to general underspends across most of our output classes.
13) Repayment of Crown funding was $8.0 million greater than budget due to making a repayment of excess major litigation funding during the year and the large Crown funding repayable balance in the prior year.
14) Investment deposits were $13.0 million more than budget due to more funds being held in short term investments than expected at year end (see variance explanation 8 above).

Kuputaka mō ngā tauākī pūtea
Financial statements glossary

The following table provides definitions of some terms used in our financial statements.

Please note that these definitions are only provided as an aid to 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 (for example, a company) for goods or services provided to us that we have not yet paid at balance date.
Accounts receivable	Debts owed to us by somebody (for example, 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 that it is applied to intangible assets (for example, software).
Asset	An asset is something we own, expect to receive in the future or control.
Balance date	The date at which a set of accounts is prepared. For the Commission, that date is 30 June of each year.
Cash equivalents	Cash equivalents are assets like term deposits that 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 that includes a surplus (or loss) from an entity's operations and movements in parts of equity that aren't the result of surpluses or owner transactions. An example is a revaluation gain on the value of assets, which increases equity by increasing the value of an asset revaluation reserve.
Current asset (or liability)	A current asset is an asset that can be converted into cash or used to pay a liability within 12 months. A current liability is a liability that we expect to repay within 12 months.
Depreciation	Depreciation is the charge of an asset's cost over a certain time period. Depreciation recognises that assets decline in their value and usefulness over time.
Equity	Equity represents the value of an entity to its owners, and is the amount left over after deducting all liabilities from all assets. It is also known as net assets.
Exchange transactions	Exchange transactions are transactions where goods or services are received in exchange for payment of approximately equal value. The vast majority of transactions in everyday life are exchange transactions.
Financial instruments	Financial instruments are assets or liabilities that are tradable in some way such as cash, shares or loans. Other financial instruments include derivatives, which are traded securities that get their value from an underlying asset (for example, a future oil shipment or a future foreign currency purchase).
Generally accepted accounting practice (GAAP)	GAAP is the series of standards, interpretations and concepts that are followed by accountants. NZ GAAP is defined by law to include standards issued by the External Reporting Board and, where that (or a specific law) does not cover a matter, accounting policies considered authoritative by the accounting profession in New Zealand.

Going concern	An assumption made by an entity that it will continue to operate into the foreseeable future. If this is incorrect, then the entity has to prepare its accounts as if it is being wound up.
Intangible assets	Intangible assets are assets that do not have a physical substance and are not cash.
Liability	A liability is something we owe, expect to pay in the future or may have to pay in the future.
Monetary assets	Monetary assets are assets that are cash, or will become cash, in a short timeframe (for example, bank account balances, term deposits and 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 we cannot ordinarily turn into cash within 12 months. A non-current liability is a liability 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 the Ministry of Business, Innovation and Employment.
Provision	An estimate of an amount that an entity may (or will) have to pay as a result of an obligation the entity has to another party.
Public benefit entity (PBE)	An entity that aims to provide goods or services to the general public to meet a specific need, rather than to make a profit for its owners.
Related party	Another person or entity that is related to us because of, for example, a common owner or person in a position of authority (for example, a director, or senior management).
Statement of cash flows	A statement that shows how much cash we have received from various sources (for example, investments, operating activities and cash injections received from the Crown) and cash payments we have made (for example, expenses, salaries and repayment of money to the Crown).
Statement of comprehensive revenue and expense	A statement that shows our surplus or deficit from our operating activities plus or less any movements in non-owner equity items. This is the public sector equivalent of a statement of comprehensive income, which we used to prepare.
Statement of financial position	A statement showing what assets we own or control, what liabilities we have and the remainder (equity) at the balance date.

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Phone: 0800 943 600
Write: Enquiries Team, PO Box 2351, Wellington 6140
Email: contact@comcom.govt.nz
http://www.comcom.govt.nz