



ANNUAL REPORT

2016



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OVERVIEW

Introduction

The Commerce Commission is New Zealand's competition, consumer and regulatory agency. We are responsible for enforcing laws relating to competition, fair trading, and consumer credit contracts, and have regulatory responsibilities in the electricity lines, gas pipelines, telecommunications, dairy and airport sectors. Our purpose is to achieve the best possible outcomes in competitive and regulated markets for the long-term benefit of New Zealanders.

As an effective competition agency and regulator we help to ensure:

- there is a level playing field for competitors – the rules are known and players are monitored
- market power is not taken advantage of for an anti-competitive purpose
- cartel behaviour is addressed
- the level of competition in a market is not substantially lessened by mergers or agreements between businesses
- consumers are protected, and clear and accurate information is provided to them
- regulated businesses face incentives to provide long-term benefits for consumers.

Competition is a key driver for delivering greater productivity and growth in the economy. It incentivises firms to innovate, and rewards efficiencies in business. Through regulation we seek to achieve comparable outcomes in markets with little or no competition.

The Commission is an Independent Crown Entity. This independence requires us to be an impartial promoter and enforcer of the law. We are primarily accountable to the Minister of Commerce and the Minister for Communications for our performance but are not subject to direction from the government in carrying out our activities.

This annual report provides an overview of the Commission's activity for the past financial year. It details our performance against our accountability frameworks, as set out in our 2014-2018 Statement of Intent (SOI), and the performance measures and budgets set out in our Statement of Performance Expectations (SPE) 2015/16.

LEGISLATION ENFORCED BY THE COMMERCE COMMISSION

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

Year in review

JULY

More NZ businesses agree to end 'opt out' pricing

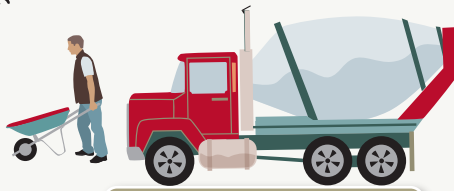


FEBRUARY

Agreement reached with Nurofen to repackage their pain specific range



Canterbury construction company charged over building guarantee



Report on unfair contract terms in the telco sector released



MARCH

Independent research released on factors affecting competition in the business mobile market



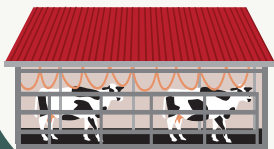
New animations campaign launched to empower borrowers



Insufficient disclosure results in over \$100,000 in refunds



Dairy report finds there is insufficient competition at the farm factory gate to consider full deregulation



Manawatu agency to pay \$1.25 million penalty in real estate price fixing case



High Court agrees with Commission that imported products are not "New Zealand made"



Supreme Court backs Commission in significant credit law case



Telco report highlights growth of mobile broadband and video streaming services



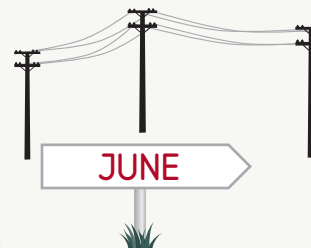
NZME and Fairfax apply for authorisation to merge NZ operations



Drainage firm director sentenced to home detention for deception over Christchurch earthquake repairs



JUNE



AUGUST



Small businesses alerted to invoicing scam

NOVEMBER



First substantiation warning issued to Baa Baa Beads over health claims



We win Plain English Award for Know Your Rights brochure



Livestock companies fined over \$3 million in price fixing case



New Competition and Consumer Investigation Guidelines published



Final decision released on wholesale broadband prices Chorus can charge on its copper network

DECEMBER

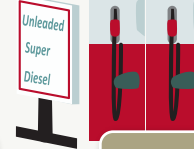
Staff move to new Auckland accommodation



APRIL



Charges laid against national chain, Baby City, over cot safety



Z Energy cleared to acquire Chevron subject to divestments

MAY

Opening of new shared reception with Tertiary Education Commission in Wellington



Settlement reached for car finance company to pay back \$440,000 to customers



Steel mesh investigation update – undertakings prevent the sale of untested mesh

New report details profitability of electricity lines companies

First mobile traders sentenced under new laws with increased penalties



Targeted changes proposed to the rules for regulated electricity, gas and airport services

Launch of staff Wellness Programme





Report from the Chairman

It has been another significant year of work at the Commission, with a number of important projects and investigations completed in our competition and regulation areas.

Our impact following consumer law reforms

Protecting consumers by disrupting illegal behaviour early has been a focus of our work and we have been actively enforcing the amended credit laws since they came into force.

Our well-publicised Mobile Trader Project has gathered momentum since we published our report in August 2015. This year we stepped up our enforcement action against non-compliant mobile traders and have:

- filed proceedings against seven mobile traders
- successfully completed prosecution of three of those traders, obtaining penalties of more than \$220,000
- opened investigations into a further 12 mobile traders.

We took our first prosecutions involving the increased penalties now available under the amended Credit Contracts and Consumer Finance Act (CCCF Act). Mobile traders Goodring Company Limited and Betterlife Corporation Limited were fined a total of \$171,500 in the Auckland District Court in June 2016.

Work has also progressed well in our other focus areas: high-cost, short-term lenders, such as payday lenders; Lender Responsibility Principles; repossession; disclosure; and credit and default fees. This year we have completed 56 investigations and initiated 13 court cases about alleged unlawful credit practices.

In a first for the Commission we launched an animation series to raise awareness of consumer rights in a more engaging way. This has been very well received by the New Zealand public and stakeholders alike and the six episodes combined have so far been viewed 340,000 times across a range of online platforms.

We gained a number of additional powers with the changes to consumer credit laws and the Fair Trading Act (FT Act). There has also been a dramatic increase in litigation cases, with about 30 this year compared with an average of seven per year in previous years.

Two important rulings with wider significance for the Commission were made in May 2016. Firstly the Supreme Court dismissed Motor Trade Finance and Sportzone's second and final appeal in a long-running credit fees case. The ruling made it clear that credit fees should only cover costs that are closely related to the particular loan transaction.

Secondly, in a key case for country of origin claims, the High Court found that NZ Nutritionals (2004) Limited made misleading claims about two goats' milk dietary supplements being "100% New Zealand made" when all the active ingredients were imported from overseas.

Increase in complex competition work

Our leniency programme is continuing to work well. We have seen an increase in businesses seeking immunity from prosecution for domestic cartel conduct over the last few years, which has fed into a rise in domestic cartel investigations. We have had successes in our real estate and livestock investigations this year, both of which resulted in court proceedings. Five organisations settled with us and were ordered to pay penalties of over \$7 million across both cases. The court proceedings continue against the remaining defendants.

In another case, Enviro Waste Services Limited was fined \$425,000 for the company and \$5,000 for the branch manager for attempted anti-competitive conduct in relation to the collection of waste oil in the upper South Island. Under the settlement Enviro Waste will also contribute a further \$25,000 towards our investigation costs.

Clearance applications decided in the last 3 years have increased compared with the previous 3 years, but they are still down from pre-Global Financial Crisis levels. Our merger work increasingly involves multiple markets and rapidly-changing technologies. For example the proposed Vodafone New Zealand and Sky Network Television merger raises issues concerning fast-moving technology markets. Likewise the proposed Fairfax NZ and NZME merger focuses on the implications of content and advertising increasingly migrating from print to mobile formats.

By far the most complex merger this year was our clearance of Z Energy to acquire Chevron New Zealand (owner of the Caltex and Challenge brands). To put this into context, it took 196 working days to complete our analysis of the competitive impact of this proposed merger on upstream and downstream markets. This includes the time taken for the applicant and other stakeholders to respond to our information requests. Our average clearance timeframe, without Z Energy, was 47.2 working days.

Regulation meets key milestones

This year we have delivered on some key regulatory projects in markets where there is little or no competition.

The input methodologies (IMs) review is underway and we are actively consulting our stakeholders during this process. The IMs are the upfront rules, requirements and processes that apply to regulation under Part 4 of the Commerce Act, and we must review them once every 7 years. Reviewing the IMs is a significant undertaking. We recognise the importance of maintaining regulations that are stable, provide incentives to invest in long-lived infrastructure and deliver long-term benefits to New Zealanders.

A feature of our IMs review has been the potential impact of emerging technologies on the sectors we regulate, in particular the electricity sector. We have looked at whether there is a risk that electricity distribution networks could become stranded investments as people adopt emerging technologies such as solar panels and domestic and commercial storage batteries. We have also assessed our cost allocation rules to ensure consumers of the regulated service benefit from these technologies. Our draft decision, issued in June 2016, was that the regulatory settings were generally well placed to respond to these changes, and we proposed only targeted changes to our IMs. The review is due to be completed in December 2016. We will continue to monitor the development and use of new technologies and collaborate with other agencies to see whether further changes could be required in time.

We are also seeing the impact of emerging technologies in the telecommunications sector, including the impact fibre and high-speed internet are having in New Zealand, such as the increase in the use of mobile and video-streaming services.

Our most complex project in the telecommunications sector was completed in December 2015 when we set the wholesale broadband prices for the next 5 years. These

are prices that Chorus charges retail telecommunications businesses for access to the local phone lines. Our decision provides a period of pricing certainty for this market. This was an important project as the price makes up roughly half of the average household's broadband bill. We developed a highly technical economic model and received over 240 submissions.

Another key work stream was our report on the state of competition in the New Zealand dairy industry, which we provided to the Minister for Primary Industries in March 2016 after nine months' work. We found that there is not sufficient competition at the farm gate and factory gate to consider full deregulation at this time.

Looking to the future

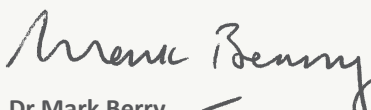
This year we have been developing a refreshed strategy to ensure we are continuing to deliver the best value and outcomes for New Zealand. This is focused on where we want to be in 5 years' time and the impact we want to have had for New Zealanders. We believe that setting an integrated strategic plan for the Commission will provide clear direction on where we are heading and how we plan to get there.

The development of this strategy follows the Performance Improvement Framework assessment completed at the end of 2015. This review concluded that the Commission is performing well overall and identified a few key opportunities for us to improve the way we work. We are pleased with the results of this review and will continue to work on the areas of improvement over the next few years.

As always the Commission is continually adapting to our changing environment and it has been a demanding but fruitful year. I am pleased with the way staff rose to the challenge of an increased workload in terms of our consumer work and the complexity of some of the merger and regulatory decisions we have made.

Lastly we were very pleased to receive in the 2016 Budget an extra \$14.2 million of operating funding over the next 4 years for our competition and consumer work, plus a one-off amount of \$1 million to cover Part 4 inquiries. This is the first funding increase for our competition and consumer work in 10 years.

We have an excellent team of people, who constantly strive to achieve the best outcomes for New Zealanders and I believe we are well placed for the future.


Dr Mark Berry —
Chairman



Report from the Chief Executive

As New Zealand's competition, consumer and regulatory agency, the Commission plays a crucial role in ensuring New Zealand's markets are competitive, consumers are well informed and protected, and sectors with little or no competition are appropriately regulated.

We place a lot of weight on making the right decisions, as we recognise the lasting impact they can have. We also work hard to ensure we have the right people and processes in place to perform our job well.

This year has been an important transitional period for us and I'm particularly proud of the work we are doing to improve the way we work through setting our strategy, increased stakeholder engagement and continued investment in our people and technology.

We appointed two excellent Senior Leadership Team members, Antonia Horrocks in competition and Nick Russ in regulation, we increased our staff capacity in Auckland and we completed the modernisation of both of our offices. These factors all contribute to setting down strong foundations to build on in the year ahead and you can read more about some of this work below.

Growing importance of Auckland

Auckland continues to grow at a rapid pace and is a hub of commercial activity, with most large businesses based there. As a result we made a strategic decision to expand our Auckland office. This not only lifts our capacity to meet the demand in New Zealand's fastest-growing region but it better enables us to recruit and retain staff in the Auckland market.

Investment in systems for better efficiency

In order to keep pace with the changing needs of our role, we are investing in new systems to help our people to do their job most effectively. This includes a new and better-suited evidence management system, and a new Commission website that is more tailored to the visitor experience and will make our information more accessible and relevant. We are also working on a new workflow system to improve many of our business processes and our stakeholder management, from logging reports about businesses to tracking our investigations.

Communicating with New Zealanders and the business community

We have continued to improve our communication and engagement with stakeholders, businesses and the wider public. This helps trader compliance and informs consumers of their legal rights.

More regular and direct engagement has been achieved through workshops, seminars, analyst and media briefings, and credit roundtables, along with our annual stakeholder events.

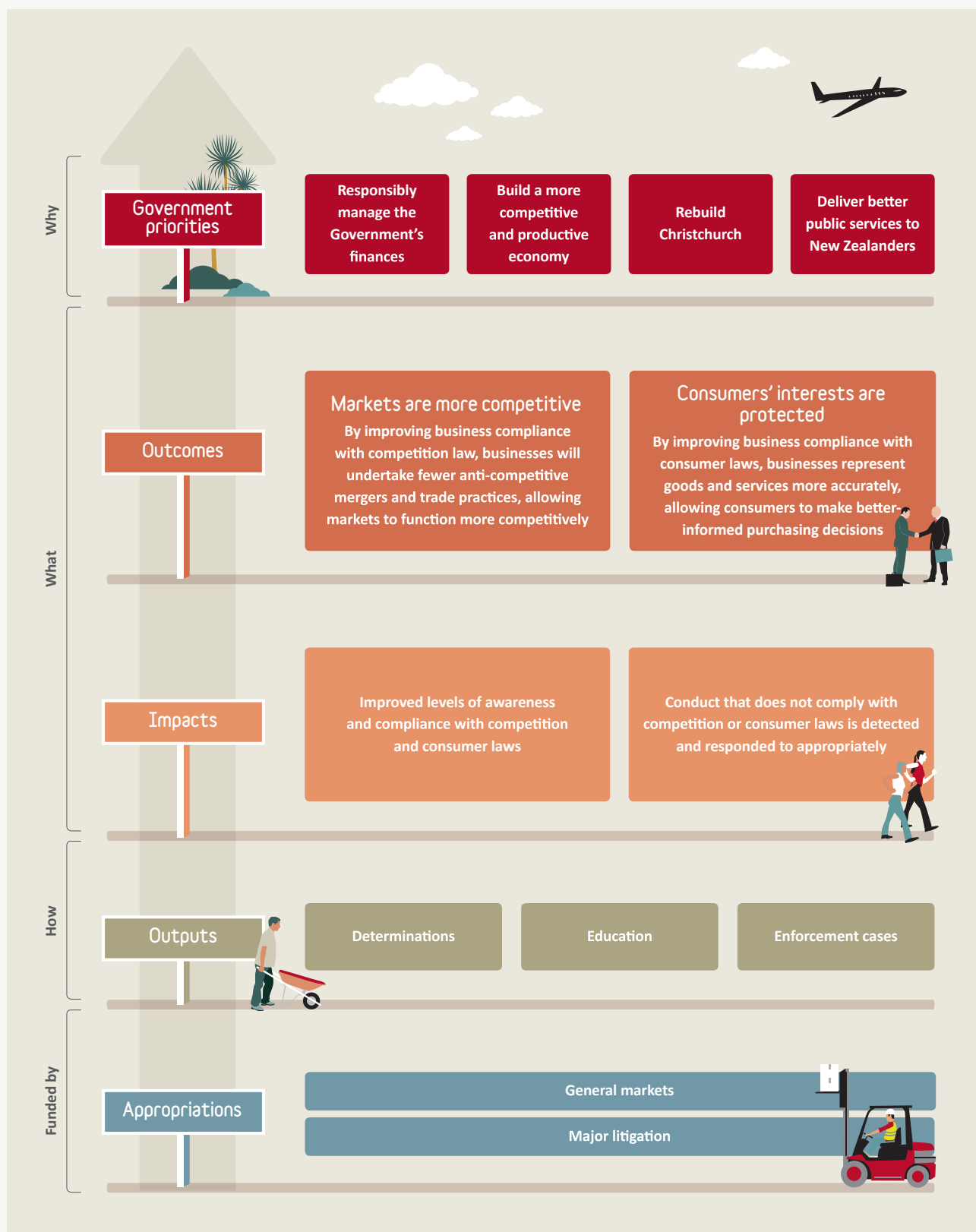
We also carry out regular international engagement with competition and regulatory agencies in other jurisdictions so we stay informed of international best practices.

Continually improving how we operate and how we engage with others is hugely important to me. I am proud of the results staff achieved this year and the positive changes we have made. I am also excited about the coming year and the steps we are taking to build on our capability for the future.

Brent Alderton
Chief Executive

COMPETITION AND CONSUMER

Accountability framework



NOTE: This is our accountability framework for the 2016 financial year. It has been amended for the 2017 financial year as shown in our Statement of Intent 2016-2020.

Review of year

We educate both consumers and businesses about their rights and obligations and take appropriate enforcement action under the laws we enforce.

Our main goals are that:

- markets are more competitive
- consumers' interests are protected.

This year our Fair Trading Act (FT Act) monitoring and enforcement work has been particularly focused on its recently expanded scope. We have also broadened our consumer credit work in response to changes to the Credit Contracts and Consumer Finance Act (CCCF Act) which came into force in mid-2015. In our Commerce Act work we continue to see an increased trend in leniency applications for domestic cartels. Two recent investigations led to our enforcement action for price fixing.

We were very pleased to receive an increase in Government funding of \$3.55 million per year in the 2016 Budget. This will be used to grow and lift our competition branch work, particularly with the added responsibilities brought by changes to the FT and CCCF Acts during the past 2 years.

Using intelligence to help select investigations and prioritise our work

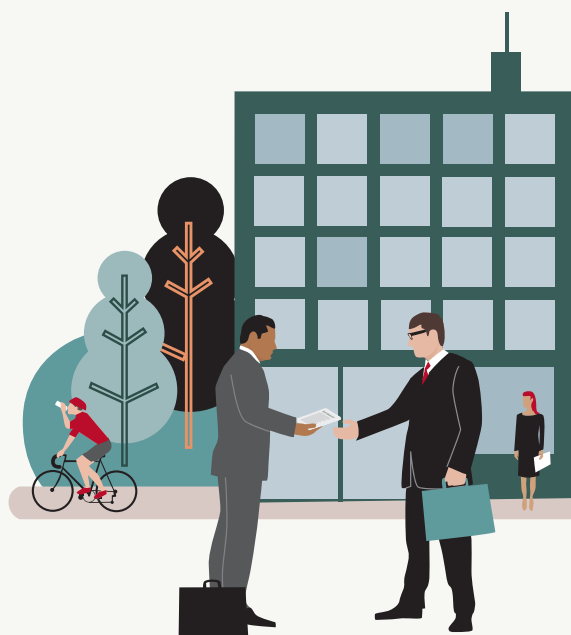
We obtain information about consumer issues from a range of sources including direct contact with us. This year we continued to collect information through our dedicated consumer credit advocacy adviser and consumer credit roundtables in Auckland and Wellington. We also benefited from data from agencies that have regular contact with borrowers, such as budgeting services, community law centres and Consumer NZ.

We assess the reports we receive about businesses in order to better understand the issues concerning consumers. This helps us to identify trends which influence our planning. In 2014 we first began producing a report to identify current issues and emerging consumer risks that potentially affect consumers and markets in New Zealand. We received a number of requests to release that report under the Official Information Act. Given those requests, and after considering the benefits of sharing this information, in 2015 we published our Consumer Issues Report for the first time.

Early intervention to limit consumer harm

We aim to detect and stop non-compliant conduct as early as possible so that we can minimise harm to consumers. This year we have done this by:

- using media releases and social media to alert consumers to harmful conduct that we have identified, issuing notifications to consumers about six different potential scams
- obtaining enforceable undertakings from businesses that the Commission believes are not complying with the law. These are a particularly useful tool to quickly stop potentially non-compliant conduct. If the business does not comply with the undertaking, we can apply to the court to enforce it
- undertaking a range of proactive compliance monitoring and engagement with traders in relation to identified areas of potential concern
- encouraging self-reporting by businesses when they have breached a law. An example of this was when Westpac New Zealand self-reported a potential breach of the FT Act. It reached a settlement agreement with the Commission and the Financial Markets Authority (FMA) to repay over \$4 million to customers who were overcharged debit card fees.

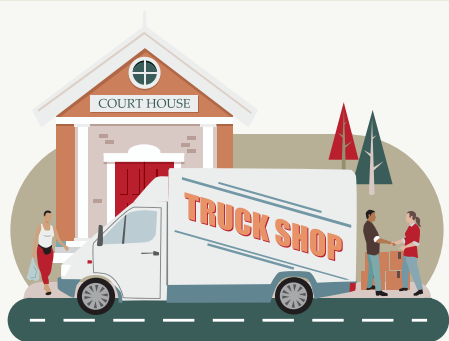


Enforceable undertakings to stop unlawful or potentially unlawful behaviour

One of our current high-profile investigations is into steel mesh and whether ductile grade 500E mesh meets the required standard. Steel mesh is used to reinforce concrete slabs, for example in driveways and when constructing houses and other buildings. The Commission obtained enforceable undertakings from three businesses to have their seismic mesh independently tested before it is sold.

In December 2015 the Commission reached an agreement with Reckitt Benckiser (New Zealand) Limited to stop sales of its Nurofen specific pain range products in their current packaging in New Zealand. This followed similar legal action in Australia in which the Federal Court found that the business had engaged in misleading and deceptive conduct by claiming that each product in the Nurofen specific pain range was specifically formulated to treat a particular type of pain when the products are identical.

In another December 2015 case the Commission accepted an enforceable undertaking from mobile trader Sales Concepts Limited to stop potentially unlawful selling practices. Sales Concepts also contacted customers who bought their Christmas Deal to offer a full refund as it did not intend to (or reasonably expect to) deliver these goods by Christmas as was represented.



Our Mobile Trader Report was published in late 2015. It identified widespread non-compliance with the CCCF Act throughout this industry. Mobile traders – often referred to as truck shops – usually sell goods door-to-door or from a truck. They offer consumer goods such as clothes, electronics and shoes on credit, and often at higher prices than are offered by traditional retail stores for equivalent goods. We followed up compliance advice provided at the end of that project and prosecuted seven mobile traders for continued breaches of the CCCF Act and FT Act. We also opened investigations into a further 12 mobile traders.

First mobile traders sentenced under increased CCCF Act penalties

In June 2016, Auckland based mobile traders Goodring Company Limited and Betterlife Corporation Limited were the first to be sentenced under increased penalties following the amendments to the CCCF Act introduced in mid-2015. The businesses were fined a total of \$171,500 in the Auckland District Court. Both businesses failed to provide borrowers with key information required under the CCCF Act. Goodring faced two additional charges relating to its failure to register on the Financial Service Providers Register.

In sentencing, Judge Sharp dealt with the matters together, although they were prosecuted as separate cases. He said that both traders' terms and conditions suffered from "serious and significant deficiencies" and accepted that they would have been extremely difficult or impossible for debtors to read or understand.

New provisions prohibiting the use of unfair contract terms in standard form consumer contracts came into force in March 2015 to protect consumers from contract terms that create a significant imbalance of rights or obligations between the business and the consumer. We are reviewing standard form contract terms for unfair contract terms in a range of industries. In February 2016 we published a report on our first industry of focus, telecommunications, and we published a report on the energy retail sector in August 2016.

We identified a number of terms which we considered potentially unfair and traders were willing to change or remove these. Formal enforcement action has not been required to date as a consequence.

Other enforcement action

Tackling misleading claims

Consumers need to be able to rely upon accurate information when deciding whether to buy products or services and this year we investigated a range of conduct which we considered may breach the FT Act. Our most significant results related to pricing of products and services, the substantiation of claims about product performance and continued efforts to reduce misleading claims about country of origin and product composition.

We concluded an important investigation into the widespread use of 'opt-out' pricing – the practice of sellers pre-selecting additional services at extra cost during an online sales process. We believe this

potentially misleads consumers into paying for additional products or services that they do not want or need. Air New Zealand agreed to stop using opt-out pricing in early 2015, with House of Travel, Nakedbus, TicketDirect, Dash Tickets and Jetstar also agreeing in the course of 2015 and early 2016 as a result of our work in this area.

In another case, we filed charges against Auckland Academy of Learning in June 2016 alleging that misrepresentations were made by staff who sold the company's educational software package and that the company breached consumer credit and direct selling laws.

We also continued our efforts to reduce consumer harm among tourists, with further prosecutions against businesses and individuals for misleading representations in relation to the composition and country of origin of alpaca and cashmere products. Our prosecution of NZ Nutritionals resulted in another important ruling on country of origin claims.

High Court judgment on country of origin claims

This year the High Court found that New Zealand Nutritionals (2004) Limited made misleading "New Zealand made" claims about two dietary supplements. NZ Nutritionals argued that the representations were not misleading because some parts of the process had occurred in New Zealand. However, the Court granted declarations under the FT Act that NZ Nutritionals had made misleading claims that two goats' milk products were "100% New Zealand made" when all the active ingredients were imported from overseas, and the substantial transformation of the products took place offshore.

Traders must substantiate the claims they make

We investigated a number of product claims where we considered traders may not have been able to substantiate their claims when they were made. We completed 14 investigations during which we asked traders to provide evidence to substantiate the claims they made about their products.

We issued our first warning in relation to a failure to substantiate product claims in November 2015. Wholesaler and online retailer Baa Baa Beads received a warning after it failed to demonstrate to the Commission that it had reasonable grounds to support claims it made about the therapeutic benefits of its Baltic amber products at the time those representations were made.

Active consumer credit enforcement

We have been actively enforcing the new consumer credit laws this year, which has included the introduction of responsible lending principles, repossession laws and an increase in available penalties for some breaches of the CCCF Act.

We completed 56 investigations into credit practices this year and concluded five prosecutions resulting in a total of \$274,000 in penalties. The majority of cases related to non-disclosure of the required key information to borrowers. In addition to proactive monitoring and enforcement of mobile traders and high-cost, short-term lenders, we have a range of compliance investigations including into: disclosure, credit and default fees, and repossession rules.



In July 2016 finance companies Budget Loans Limited and Evolution Finance Limited were found guilty in the Auckland District Court on 106 charges brought by the Commission under the FT Act. The companies were found guilty of representations (mainly related to repossession) made to 18 borrowers while enforcing loan contracts.

We were also pleased to conclude the long-running series of appeals in proceedings brought against Motor Trade Finance (MTF) and Sportzone Motorcycles Limited. This has provided clarification of the CCCF Act requirement that lenders charge credit fees that are reasonable. We are revising our credit fees guidance as a consequence of this matter concluding.

Supreme Court backs Commission in significant credit law case

In May 2016 the Supreme Court dismissed MTF and Sportzone's second and final appeal in a long-running credit fees case. The ruling made it clear that credit fees should only cover costs that are closely related to the particular loan transaction. The Court agreed with the Commission that the purpose of the CCCF Act is to protect borrowers, ensuring the costs of borrowing are transparent.

Construction sector

The construction industry has remained a priority for the Commission, particularly as building continues to expand in Christchurch and Auckland. The Commission was involved in two prosecutions in the construction industry in Christchurch this year. One concerned a construction business director who made false representations about providing Homefirst building guarantees to home owners. The other was a joint investigation with the Police of a drainage firm which undertook repairs on properties having told its customers they would be fully reimbursed by the Earthquake Commission (EQC) without prior EQC authorisation. Our steel mesh investigation into six businesses is a priority investigation.

Consumer information and product safety standards

The FT Act includes six product safety standards and a range of consumer information standards which the Commission monitors and enforces.

This year we prioritised inspections relating to cots and toys intended for the use of children aged under 3. We took a range of enforcement action in relation to perceived non-compliance, including against sellers of second-hand cots. We currently have nine charges pending against Baby City Retail Investments Limited alleging non-compliance with the product safety standard relating to cots. We also filed 28 charges against 123 Mart Limited relating to 10 children's toys and five clothing items. We allege the toys and children's sleeping pants are non-compliant with the relevant product safety standard. Another product safety case example is below.

Business prosecuted over unsafe Transforma ladders

In October 2015 Brand Developers Limited was fined \$153,000 in Auckland District Court for charges relating to wrongly claiming that its Transforma ladders had a certified load rating of 180kg and for selling ladders in breach of an Unsafe Goods Notice prohibiting their sale.

The case was the first time the Commerce Commission has prosecuted a company for selling or advertising a product covered by an Unsafe Goods Notice.

In addition, we utilised our new enforcement power to issue infringement notices to traders who failed to comply with consumer information standards. The majority of these were motor vehicle dealers who did not display compliant Consumer Information Notices.

Cartel investigations

We have seen an increase in leniency requests seeking immunity from prosecution for domestic cartel conduct in the last 3 to 4 years. We expect this trend will continue, particularly with continued education and the publicity around high-profile domestic cases.

Alongside this, domestic cartel investigations have increased in the last 2 years in comparison with international investigations. Although there are some global cartels being investigated by overseas agencies, this conduct has not concerned a New Zealand market. Two of our recent cartel investigations have led to enforcement action for price fixing, as below.

Real estate agencies in court for price fixing

In December 2015, we filed proceedings in the Auckland High Court for alleged price fixing and anti-competitive behaviour by 13 national and regional real estate agencies, a business owned by a number of national real estate agencies, and three individuals. We also issued warnings to an additional eight agencies for their role in the alleged conduct. The Commission has agreed settlements with three parties with the court-imposed penalties totalling \$4.35 million. Cases against the other defendants are ongoing.

Livestock businesses fined over \$3 million for price fixing

In August 2015, the Commission filed court proceedings against PGG Wrightson, Elders New Zealand, Rural Livestock and five individuals alleging price fixing in connection with the introduction of the National Animal Identification Tracing Act 2012 (NAIT Act). Seven other livestock businesses and the industry association received a warning.

PGG Wrightson and Rural Livestock settled the cases against them and in December 2015 were ordered by the High Court to pay a penalty of \$2.7 million and \$475,000 respectively. The case against the remaining defendants continues.

High level of determinations activity

The number of decided clearance applications dropped slightly this year from 14 to 12. We have seen a rise in the number of merger clearance applications decided over the last 3 years, compared with the previous 3 years, but numbers are still down from pre-Global Financial Crisis levels.

In the last 3 years we decided 39 applications compared with 27 in the previous 3 years.

Z Energy cleared to acquire Chevron subject to divestments

The most complex merger this year, in terms of scale and the number of markets involved, was our clearance of Z Energy to acquire Chevron New Zealand (owner of the Caltex and Challenge brands). In April 2016 we cleared Z Energy to acquire 100% of Chevron subject to it divesting 19 retail sites and one truck stop in locations where we considered competition would be substantially reduced as a result of the merger.

We analysed the competitive impact of the proposed merger on the supply of fuel to retail and commercial customers. We also considered how the merger would impact on competition in upstream and downstream markets associated with refinery, distribution and storage infrastructure. Commissioners were in agreement on the impact of the merger on six of the seven markets we analysed, with the exception being retail service stations, where Commissioner Walker held a dissenting view.

This year we authorised Cavalier Wool Holdings Ltd to acquire New Zealand Wool Services International Ltd's wool-scouring business and assets. This decision was appealed by Godfrey Hirst. The Commission's decision was upheld by the High Court and Godfrey Hirst then appealed on one issue to the Court of Appeal.

Continued emphasis on communicating with consumers and the business community

An important part of our role is to offer information and advice to businesses and consumers about the laws we enforce. Helping businesses to understand their competition and consumer obligations encourages compliance. It is equally important to ensure consumers are aware of their rights. We have continued to lift our levels of stakeholder engagement this year through more regular workshops, seminars, analyst and media briefings, and stakeholder events.

In December 2015 year we released investigation guidelines designed to help traders and consumers understand how we investigate competition and consumer matters. They cover a wide range of topics to help consumers, traders and lawyers understand what they can expect during a Commission investigation.

As the construction sector remains of ongoing importance, we also work specifically with stakeholders in this sector to ensure they understand the Acts we enforce. As part of this work we have an award-winning construction microsite <http://construction.comcom.govt.nz/>, where stakeholders can get relevant information in an easy-to-understand format. This was updated earlier this year to include a section on extended warranties, unfair contract terms and a quiz resource.

It's All Good – an engaging approach

To protect New Zealand consumers from harmful lending or trading practices, we launched a series of animations in March 2016. The *It's All Good* series was designed to use a more engaging method to let people know about how the consumer credit laws and the Fair Trading Act apply to them in everyday situations.

Since the launch of the first episode there has been a fantastic response on social media as well as from consumer advocates and stakeholders. Collectively the six videos have now been watched over 340,000 times on a range of online platforms.

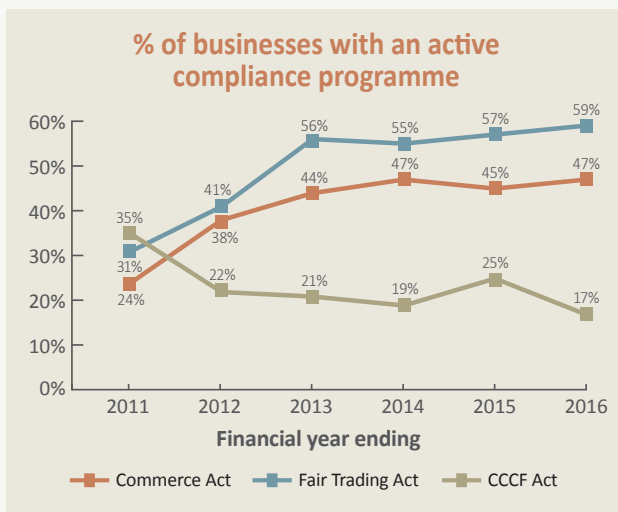


Measuring our performance

This section reports back on the performance measures in our SOI 2014-2018 and our SPE 2015/16. These measures also match the measures in the Estimates of Appropriations 2015/16 under the Vote Business, Science and Innovation: Enforcement of General Market Regulation appropriation.¹ We recognise that there are some issues with these measures and have reviewed them for the 2017 financial year, as outlined in our SPE 2016/17.

Impact measures

Impact measure 1: The percentage of businesses that have an active compliance programme under the Commerce Act, Fair Trading Act and Credit Contracts and Consumer Finance Act increases over time

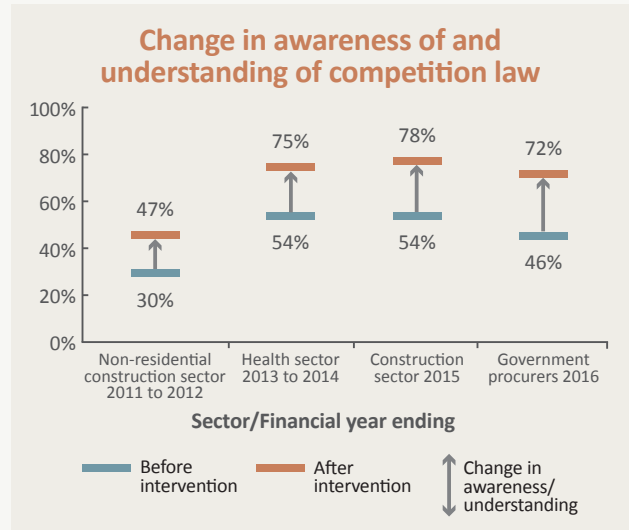


We have partially met our target of an increase in the percentage of businesses that have an active compliance programme under the Commerce Act, Fair Trading Act (FT Act) and the Credit Contracts and Consumer Finance Act (CCCF Act). The percentage of businesses with an FT Act compliance programme increased to 59%, the highest percentage recorded since we began this survey. The percentage with a compliance programme under the Commerce Act increased slightly to match the 2014 result, while the result for the CCCF Act fell. This survey was sent to 829 businesses with 125 responding, a response rate of 15%.

1. The impact measures were not included in the Estimates for 2015/16.

Impact measure 2: Targeted sector surveys indicate that a higher proportion of businesses are aware of and understand competition and consumer law than before the intervention

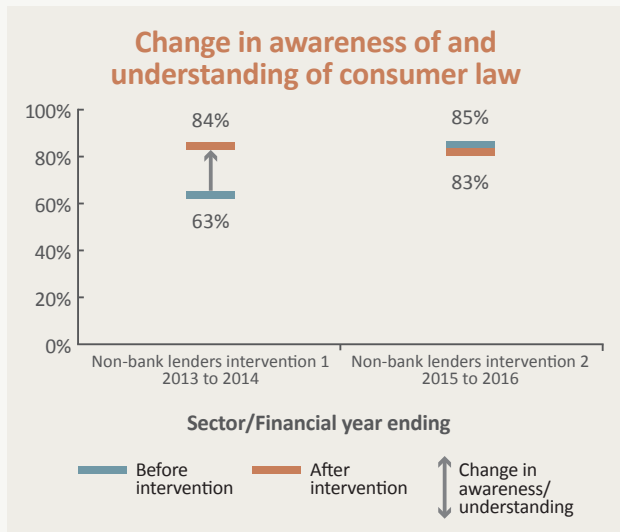
Competition



This year we have met our target of an increase in awareness and understanding of competition law in our targeted sector of government procurers. While our target is for a year-on-year increase, we changed the way we collect information for this measure in 2015, which means the before and after results are both collected within the same financial year. With different sectors being targeted each year, trend data is not available across financial years.

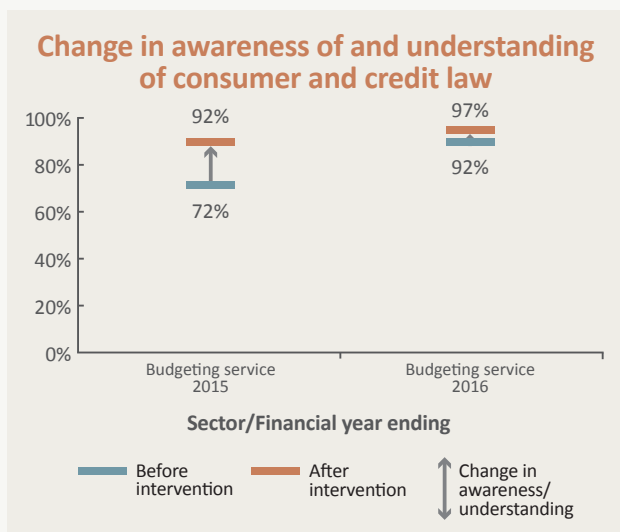
This advocacy was part of an outreach project for government procurement teams that focused on how to detect and deter bid-rigging in government procurement. We surveyed two groups of participants before and after attending a presentation on competition law, following the same approach as last year. A total of 27 participants completed the before and after surveys, which was 100% of those attending the workshop.

Consumer



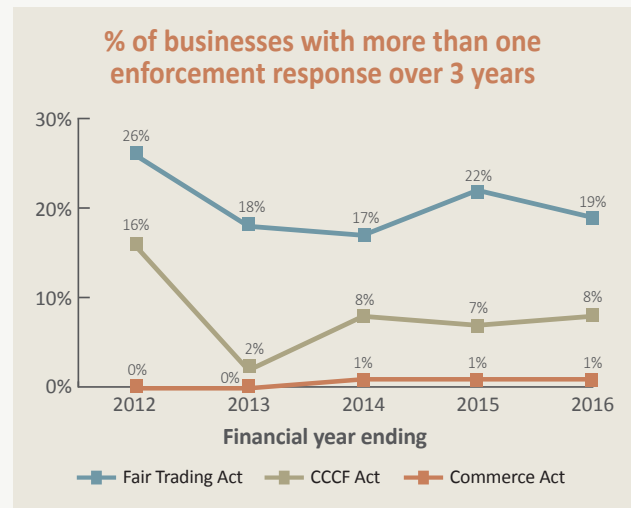
We have continued to focus on the non-bank lenders sector, through providing feedback on last year's survey and presentations. The two organisations surveyed started with a high existing understanding of consumer credit law, with a baseline of 85% across the two organisations in last year's survey. Our target was for a year-on-year increase in the targeted sector. In the follow-up survey this year, 83% of respondents answered the questions correctly, indicating that levels of awareness are very similar to last year. Of 169 possible respondents, 33 finished the survey, a response rate of 19.5%.

Impact measure 3: Targeted sector surveys indicate that a higher proportion of consumer stakeholder groups are aware of and understand consumer and credit law than before the intervention



We have met our target of a year-on-year increase in the awareness and understanding of consumer and credit law in our targeted sector. We resurveyed the budgeting service we had surveyed in 2015 to test awareness and understanding a year after our original engagement. While the base level of knowledge was already high at 92%, it increased further following our workshop. Twelve people attended the workshop and all completed the survey, except for one person who did not answer one question.

Impact measure 4: As a result of our interventions, the percentage of businesses who receive more than one enforcement response over 3 years decreases²



We have met our target of a decrease in businesses with multiple enforcement responses for the FT Act, while the Commerce Act and the CCCF Act have stayed stable. This measure helps our understanding of whether the information we provide businesses through compliance advice, warnings, infringement notices, settlements and prosecutions helps them to understand the law and to comply with it. The improvement in the FT Act result from 2015 may in part reflect an increased understanding of the new consumer laws.

2. This measure is calculated by reviewing the businesses that have had more than one enforcement outcome (compliance advice, warning, infringement notice, settlement or prosecution) in the three-year period. We divide the number of enforcement outcomes those businesses have had in the period by the total number of enforcement outcomes to get our result.

Output measures

In our competition and consumer work we provide outputs in three areas:

→ **Determinations** – mergers are assessed and cleared when they are not likely to substantially lessen competition in a market. Authorisations of mergers and restrictive trade practices are granted when they are in the public interest

→ **Education (Advocacy)** – all stakeholders are informed of the rights and responsibilities that apply to them under competition and consumer laws

→ **Enforcement** – conduct that does not comply with competition or consumer laws is detected and responded to appropriately.

	2016 target	2016 actual	2015 actual	2014 actual	2013 actual	2012 actual
Determinations						
Number of clearance applications processed (demand driven)	10-22	12	14	13	9	8
Number of authorisation applications processed (demand driven)	0-4	1	1	0	0	3
Percentage of successful defended determinations appeals ³	100%	N/A	N/A	N/A	N/A	N/A
Average number of working days from date of registration to date of decision for merger clearance applications	40 days	59.5 days	63.6 days	59.6 days	66.8 days	63.7 days
Average number of working days from date of decision to date of publication of reasons for declined clearance applications	10 days	8 days	33.5 days	N/A – no declines	25.50 days	N/A – no declines
Education (Advocacy)						
Number of Commission guidelines or fact sheets provided	2-10	10	17	25	16	20
Number of substantial pieces of advice provided to government (demand driven)	2-10	11	10	8	11	20
Percentage of stakeholders that find our publications clear and/or useful	92%	90%	92%	92%	Not measured	Not measured
Enforcement						
Number of market structure investigations completed	0-5	1	2	1	2	3
Number of coordinated behaviour investigations completed	5-14	7	8	11	10	9
Number of unilateral conduct investigations completed	2-6	1	3	3	1	2

Table continued overleaf

3. This measure previously reported the percentage over a five-year period. The Estimates of Appropriations 2015/16 still contains this old wording. The last appeal result was in June 2011 and was successfully defended. One appeal is currently before the court.

	2016 target	2016 actual	2015 actual	2014 actual	2013 actual	2012 actual
Enforcement (continued)						
Number of Fair Trading Act investigations completed	200-300	257	281	259	412	462
Number of product safety and information standards investigations completed	80-120	87	129	68	48	56
Number of CCCF Act investigations completed	40-60	56	40	40	47	49
Percentage of investigations decided within 18 months of the investigation being opened	100%	96%	98%	95%	98%	99%
Percentage of investigations decided within 12 months of the investigation being opened	95%	91%	95%	91%	95%	Commerce Act: 92% FT Act, Product Safety and CCCF Act: 98%
Percentage of surveyed businesses that have received a compliance advice or warning letter from the Commission in the last 12 months that report the Commission's communications and guidance are clear and/or useful	95%	92%	91%	70%	84%	95%
Quality measure for all outputs						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0

The Z Energy merger took the longest deliberation period of any merger this year. It was a particularly complex merger involving a number of markets. If we exclude this merger, our average working days (from the date of application to the decision date) were 47.2 days. The length of time we take deciding applications depends on a number of factors such as the amount of time it takes applicants and other stakeholders to respond to our information requests. To address this and align with other overseas jurisdictions, we are changing the way that we calculate this measure for the 2017 financial year. More information can be found in our SPE 2016/17.

Over the last few years, we have completed a large number of guidelines and fact sheets due to changes to consumer laws. This work is largely complete so we did not produce as many publications this year.

Our stakeholder survey asked stakeholders whether they agreed that our publications are clear and/or useful. We had 87 responses for the clarity question and 85 responses for the usefulness question, out of the 975

stakeholders it was sent to. Of those that responded, 90% said they found our publications clear and/or useful.

We also asked businesses that have received a compliance advice or warning letter this year whether they found our communications and guidance clear and/or useful. We sent the survey to 215 businesses, with an overall response rate of 27% and a response rate of 12% for the specific questions that make up this measure. Of those that responded, 92% found our communications and guidance clear and/or useful, up slightly from 91% last year.

One area of focus this year was the timeliness of our decision making on investigations. We reviewed our investigation processes along with a focus on bringing investigations which had been open for more than 12 or 18 months to a close. We expect the percentage of investigations decided within 12 months of the investigation being opened to improve over the next year as the number of existing investigations undecided over 12 and 18 months has decreased.

Finances

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

We also receive revenue which funds this work from third-party application fees, interest revenue,

cost awards from successful litigation cases, and cost recoveries for shared corporate services with other state sector agencies.

The following table outlines the income and expenditure relating to the delivery of the competition and consumer outputs:

	2016 Actual \$000	2016 Budget \$000
Operating revenue		
Crown revenue	13,935	13,935
Other revenue	1,248	1,051
Total operating revenue	15,183	14,986
Operating expenses		
Determinations	3,263	3,000
Enforcement cases	9,537	9,433
Advocacy	2,359	2,552
Reports to ministers	301	577
Total operating expenses	15,460	15,562
SURPLUS/(DEFICIT)	(277)	(576)

The deficit for the General Markets output class was less than budgeted. The output class received higher than expected other revenue, mainly as a result of unbudgeted cost awards received and higher application fee income. Determinations expenditure was higher than budget but within our expected target range. This was due to increased staff activity caused by the complexity of some authorisations and clearances received. Enforcement expenditure was more than budget due to higher than anticipated activity in this area. Reports

to ministers expenditure was lower than budget due to no Part 4 inquiries taking place.

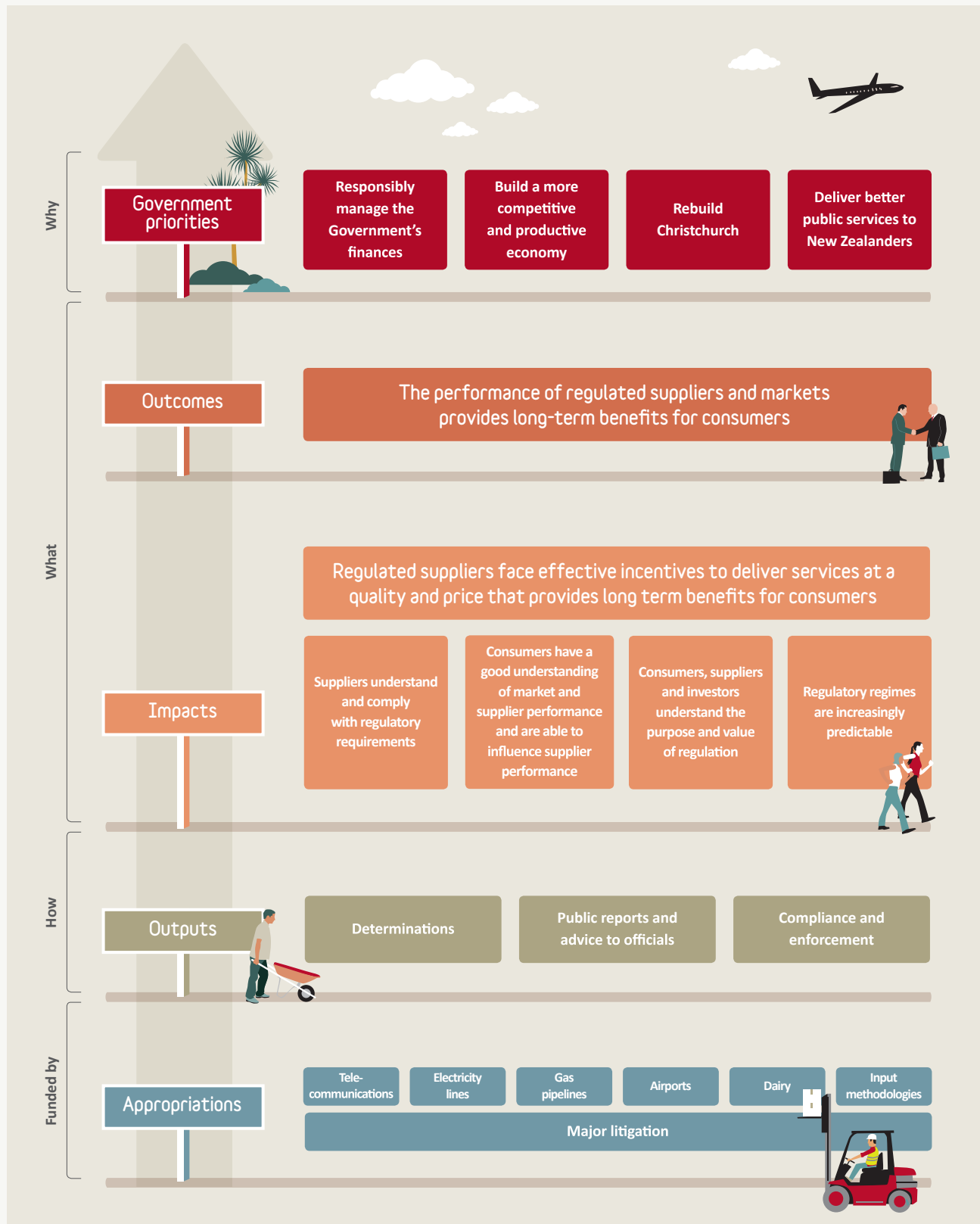
Appropriation funding

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

	Estimates \$000	Supplementary Estimates \$000	Actual \$000	Difference vs Supplementary Estimates \$000
Crown revenue	13,935	13,935	13,935	0
Total	13,935	13,935	13,935	0

REGULATION

Accountability framework



NOTE: This is our accountability framework for the 2016 financial year. It has been amended for the 2017 financial year as shown in our Statement of Intent 2016-2020.

Review of year

We have regulatory responsibilities under the Commerce Act, Telecommunications Act and Dairy Industry Restructuring Act (DIR Act) to deliver targeted and effective regulation of markets where there is little or no competition.

For economic regulation to be effective, we need to put in place appropriate incentives for suppliers to deliver outcomes that are for the long-term benefit of consumers. We incentivise suppliers in a range of ways including: determining price-quality paths, providing public commentary on the performance of suppliers, and undertaking compliance and enforcement activities. This helps to ensure consumers receive the goods and services at the price and quality they might get if the market was competitive.

This year we have placed a strong focus on involving our stakeholders and improving how we engage with them. This has been done in a range of ways, from increased use of bilateral meetings, workshops and forums to improved communication tools, such as the use of infographics.

Telecommunications

We have continued to ensure fixed-line and mobile markets are competitive through regulation of wholesale telecommunication services and monitoring of market performance. Highlights include:

- setting wholesale copper broadband prices for New Zealand
- reviewing 14 services to see if regulation was still needed
- investigating whether there were obstacles to competition in business mobile
- other ongoing monitoring of New Zealand's telecommunications markets.

Set wholesale copper broadband prices for New Zealand

In December 2015 we provided a five-year period of pricing certainty in the wholesale broadband market when we reset the prices that Chorus can charge retailers for certain telecommunication services. Setting the wholesale broadband price involved the most complex and extensive economic model the Commission has been tasked with creating.

Our decision was communicated to stakeholders through a variety of channels, including media and analyst briefings, as well as infographics to illustrate the key parts of the decision. Extensive media coverage ensured wide-ranging awareness and understanding of the decision.

Reviewed 14 services to see if regulation was still needed

In June 2016, we completed our periodic review of whether continued regulation of 14 services would be beneficial to consumers in the long term. As markets evolve, new retail services are developed and wholesale retail providers can face increased competition. Consequently, it may no longer be necessary to mandate access to a particular service.

In light of emerging competition, our conclusion during this review was that the time was right to further investigate the deregulation of three voice resale services provided by Spark. Alternatives to these services include ultra-fast broadband and baseband services provided by Chorus, which enable retailers to provide voice services to consumers. We therefore intend to consult with industry about the possibility of deregulation before making a recommendation to the Minister.

The Ministry of Business, Innovation and Employment (MBIE) is currently reviewing the Telecommunications Act to ensure New Zealand has the right framework for communications networks in the future. This work is scheduled to be completed in 2017 and we are providing input and advice as appropriate when requested.

Investigation of obstacles to business competition in mobile markets

As part of our ongoing monitoring of competition in mobile markets, this year we commissioned independent research to test whether there are obstacles to business mobile competition, such as customers being able to switch providers and perceptions of mobile provider quality. The UMR survey released in March 2016 found that respondents believed the business mobile market was competitive compared with other industries. Overall, the study did not find any anti-competitive behaviour or structural, legal or systemic factors existing in the market that are inhibiting competition.

Other ongoing monitoring of New Zealand's telecommunications markets

In March 2016, we also published our ninth annual telecommunications market monitoring report. A lot of the data for this report was collected from an annual telecommunications industry questionnaire administered by the Commission. We use this data and other sources to help monitor the performance and development of telecommunications markets as well as sector competition in general.

We issue this report in order to inform stakeholders of the development of telecommunications markets in New Zealand.

Part 4 (Electricity, Gas and Airports)

The Part 4 regime is increasingly well established. Since the input methodologies were first determined in 2010:

- there have been a number of price-quality path resets for electricity lines businesses
- the first reset of the price-quality paths for gas pipeline businesses will be completed in 2017
- Auckland and Christchurch Airports will be completing their second price setting events under the Part 4 information disclosure regime in 2017.

Consistent with the regime bedding down, the areas of contention for interested parties participating in our current input methodologies review have narrowed significantly.

MBIE is currently reviewing the regulatory regime with respect to airports, which may result in targeted changes to the Part 4 regime.

Monitoring

Our monitoring work examines the information disclosed by regulated businesses and provides insights into supplier performance and how we can improve incentives for regulated sectors. This information shines a light on both good and poor performance, which incentivises suppliers to focus on the long-term benefit of consumers in their planning and performance.

Profitability of electricity distributors

In June 2016 we published our first analysis of the profitability of electricity distributors that are subject to price-quality regulation, focusing on the period 2012-2015. We focused on this time period because 1 April 2012 was the date from which input methodologies were first reflected in pricing, and that regulatory period came to an end on 31 March 2015.

The key findings were that the revenue limits were effective at limiting excessive profits, while we also saw an increase in investment in the electricity distribution networks. This report should reassure consumers that lines companies' returns are appropriate and that there is continued investment in electricity lines infrastructure.

Overall, actual returns ranged from 5.55% to 8.37% across 3 years and the majority of distributors were within one percentage point of what we modelled when setting their price-quality paths. The remainder earned less than we modelled, particularly The Lines Company and Centralines (noting that suppliers are not required to price up to their path limits). The regulatory settings also appear sufficient to incentivise investment – capital expenditure has increased by around \$33 million (2015 prices) per year compared with historical levels (2008-2012). However, we have not reached conclusions on the efficiency of this expenditure.

Input methodologies review

Input methodologies (IMs) are the upfront rules, processes and requirements that apply to sectors regulated under Part 4 of the Commerce Act. They underpin the price-quality paths and information disclosure requirement that regulated suppliers are subject to. Ensuring our IMs are fit for purpose through our IMs review is a key area for our regulation work. We have placed a strong emphasis on involving our stakeholders in the review process to better understand their views and concerns.

In our draft decision published in June 2016, we proposed only a small number of substantial changes to the existing IMs, along with a number of minor, incremental improvements. We have concentrated on proposing changes that will better promote the long-term benefit of consumers, while also taking opportunities to reduce compliance costs and complexity for the sectors we regulate.

A key area of focus for the IMs review has been on improving the cost-effectiveness of the rules for making and evaluating customised price-quality path (CPP) proposals. We have also identified a number of specific areas where we think information disclosure requirements and associated IMs for Auckland, Wellington and Christchurch airports could be improved. We expect to complete these changes ahead of the next price setting events for Auckland and Christchurch airports that are due in 2017.

A few potential changes to cost of capital parameters (including asset beta and our approach to assessing the cost of debt) remain contentious, and have been the subject of conflicting submissions and expert commentary.

We are aware of the potential for significant change to arise in the electricity sector from the increasing adoption of new technology (such as solar panels, domestic and commercial storage batteries), new business models, and evolving consumer preferences. Our draft decision was that the IMs are flexible enough to deal with foreseeable developments in emerging technologies without major changes. We are currently considering submissions in response. We will continue to engage with stakeholders on how the sector is developing, beyond the end of the IMs review, to ensure we are ready to make any changes that may be required to the IMs in the future.

Part 4 inquiries

The Commission has also continued to monitor and investigate complaints about unregulated suppliers in markets with little or no competition. In doing so, we assessed whether certain markets should be regulated under the Commerce Act via a Part 4 inquiry and have aimed to find low-cost solutions to address complaints as efficiently as possible.

Although most of our work was done in the previous financial year, this year our involvement in a complaint raised by Eastland Port concerning price rises was resolved. This resulted in a commercial resolution between parties. We were pleased the issue was resolved for the long-term interests of consumers and parties involved.

We also conducted a preliminary assessment of the costs and benefits of regulating gas metering services. This followed a merger clearance application from Vector to acquire the gas metering assets and business of Contact Energy's natural gas metering business. Through this process we identified a lack of competition in the North Island market, in which both Vector and Powerco operate. However our initial findings suggested customer benefits from regulation would be modest, with possible savings of 63 cents to \$1 on a monthly bill. In April 2016 we decided that the likelihood that the benefits of regulation would materially outweigh the costs was not sufficient to justify commencing a Part 4 inquiry. We will continue to pay attention to the pricing of gas metering services, consistent with our approach to any sector where there is limited competition.

Dairy

Our monitoring in the dairy sector is targeted to enable efficient review of the annual milk price calculation and manual processes. These reviews are of interest to a large number of stakeholders in the dairy industry. In March 2016 we also completed our review of the state of competition in New Zealand's dairy industry.

Reviews of Fonterra's annual milk price calculation and manual

Each year Fonterra calculates the base milk price it will pay dairy farmers for raw milk based on the methodology set out in its milk price manual. The Commission reviews both the base milk price calculation and the milk price manual each year.

In December 2015 our final report found that the 2015/16 manual is largely consistent with the purpose of the milk price monitoring regime under the Act. We subsequently reported on a few subsidiary issues in our review of the 2015/16 base milk price calculation.

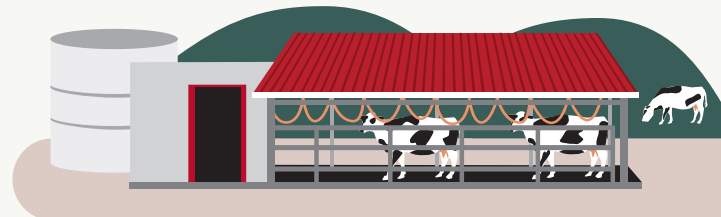
Dairy competition review

In June 2015 the Minister for Primary Industries requested that the Commission provide a report on the state of competition in the New Zealand dairy industry. Amongst other things, we were also asked to explore the options for a transition pathway to deregulation, if competition was deemed to be insufficient.

In March 2016, we provided our advice to the Minister on the state of competition, and we provided options for a pathway to deregulation. The key findings of the review were that:

- there is not sufficient competition at the farm gate and factory gate to consider full deregulation at this time
- a pathway to deregulation would be smoothed by facilitating the development of a factory gate market for non-DIR Act milk.

Following these findings, the Ministry for Primary Industries made a number of proposed changes to the Dairy Industry Restructuring Act 2001 and the Dairy Industry Restructuring (Raw Milk) Regulations 2012.



Measuring our performance

This section reports back on the performance measures in our SOI 2014-2018 and our SPE 2015/16. They also match the measures in the Estimates of Appropriations 2015/16 under Vote Business, Science and Innovation:⁴

- Economic Regulation of Electricity Lines Services 2014-2019 (multi-year appropriation)
- Economic Regulation of Gas Pipeline Services 2014-2019 (multi-year appropriation)
- Economic Regulation of Specified Airport Services 2014-2019 (multi-year appropriation)

- Enforcement of Dairy Sector Regulation and Auditing of Milk Price Setting
- Enforcement of Telecommunications Sector Regulation.

We recognise that there are some issues with these measures and have reviewed them for the 2017 financial year, as outlined in our SPE 2016/17. In particular we found that a survey-based approach to gathering data to assess our regulation branch's performance was ineffective because of the small number of stakeholders involved, which affected the robustness of our results.

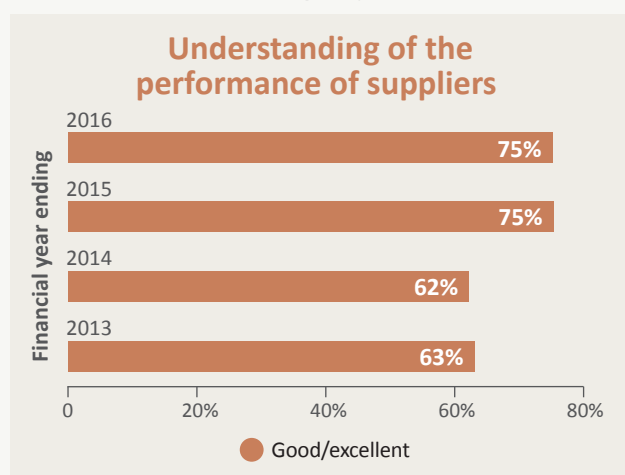
Telecommunication outcome measures

	2016 target	2016 actual	2015 actual	2014 actual	2013 actual	2012 actual
New Zealand's position in the Organisation for Economic Co-operation and Development's ranking improves for fixed broadband services (connections per 100 of the New Zealand population)	Achieved	Achieved: 2015 quarter 4 ranking – 14	2014 quarter 4 ranking – 15	2013 quarter 4 ranking – 15	2012 quarter 4 ranking – 15	2011 quarter 4 ranking – 17
A year-on-year increase in the average connection speed of 40% (as measured by Akamai)	Achieved	Not achieved 27%	38%	33%	8%	9%

While we have not reached our target of a year-on-year increase in the average connection speed of 40%, we are pleased to note that the percentage of connections getting more than 10Mbps has increased from 15% to 26% over this year.

Impact measures

Impact measure 1: Understanding of the performance of regulated services by targeted business and consumer groups increases over time

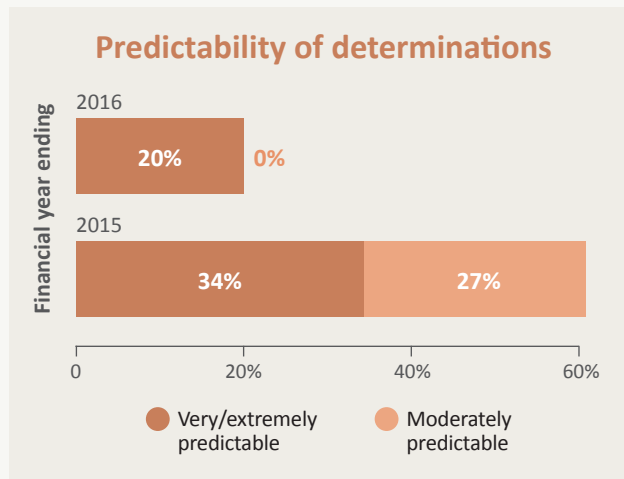


While we did not meet our target of a year-on-year increase, we are happy to note that the level of understanding of the performance of regulated suppliers has been kept at a high level. Our report on the profitability of electricity distributors (see page 22 for more information) was a substantial piece of work to improve the understanding of suppliers' performance. Unfortunately the report was released in June 2016, just after we sent out our annual stakeholder survey so the result will not have captured this work.

This result was calculated from our annual stakeholder survey, which asked stakeholders from all the industries we regulate (except dairy) to rate their understanding of the performance of suppliers out of 5 (excellent, good, average, poor, very poor). The response rate to this question was 41% (67 respondents out of 162 stakeholders who were asked this question).

4. Not every measure is included under each appropriation. Sector-specific measures are identified under the relevant sector appropriation. The impact measures were not included in the Estimates for 2015/16.

Impact measure 2: Percentage of market analysts and advisers who are able to predict our regulatory price setting determinations based on publicly available information



While our target was set with the intention of aiming for a year-on-year maintenance or increase in the predictability of determinations, we have found that the results are not directly comparable between years as they are dependent on the determinations concluded in the year. These can vary each year in terms of complexity and the sectors involved, meaning it is not realistic to compare the predictability of one determination with another.

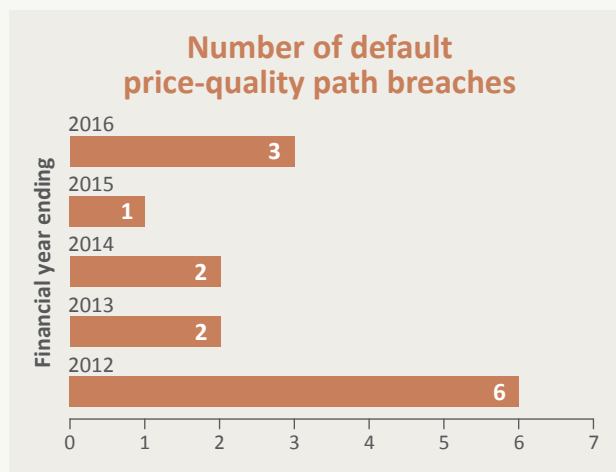
Only one determination was released this year, which involved setting wholesale prices for access to unbundled copper local loop (UCLL) and unbundled bitstream access (UBA) services based on complex data modelling of Chorus' telecommunications network. This was the first time we had used total service long run incremental cost (TSLRIC) modelling in a final determination. To increase understanding of this method and increase the predictability of our decisions among market analysts and advisers in the telecommunications sector, we hosted several industry workshops to explain the modelling approach.

We sent the survey to 16 individuals we identified as market analysts and advisers in the telecommunications sector and we received responses from five of them, a response rate of 31%. However due to the low number of responses, this result is indicative only and should be viewed with extreme caution. The stakeholder survey asked respondents to rate the predictability of the final pricing review determination of Chorus' UCLL and UBA out of five options (extremely, very, moderately, slightly or not at all predictable).

In addition to this result, our survey also found that 35% of the 17 respondents from the telecommunications sector felt that it was getting easier to predict the Commission's regulatory price setting determinations, compared with just 12% in 2015.

Impact measure 3: Breaches of the regulatory requirements by businesses reduce over time – Number of default price-quality path breaches

Price-quality regulation has been in place since 2010 and applies to 17 of the 29 electricity distribution businesses. This regulation aims to limit the ability of suppliers to earn excessive profits, while also ensuring that required standards for service quality are met. Default price-quality paths were set for five gas pipeline businesses in 2013 but there have been no breaches so far.



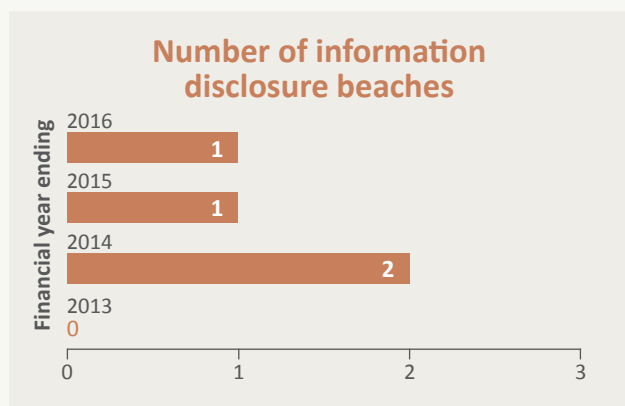
We have not met our target of a year-on-year decrease in the number of breaches of default price-quality paths. The three quality path breaches, for Alpine Energy, Aurora Energy and Vector, were self-identified by the businesses in their compliance statements. We will be investigating the causes and conduct associated with these breaches, and taking enforcement action where appropriate.

Further instances of non-compliance with the requirements for the assessment periods above may be identified at a later stage by the Commission.

Impact measure 4: Breaches of the regulatory requirements by businesses reduce over time – Information disclosure breaches

Information disclosure applies to electricity distribution, gas pipeline and airport services. It enables interested persons to assess whether the purpose of Part 4 of the Commerce Act is being met. A breach occurs where the information disclosed does not comply with the requirements set by the Commission.

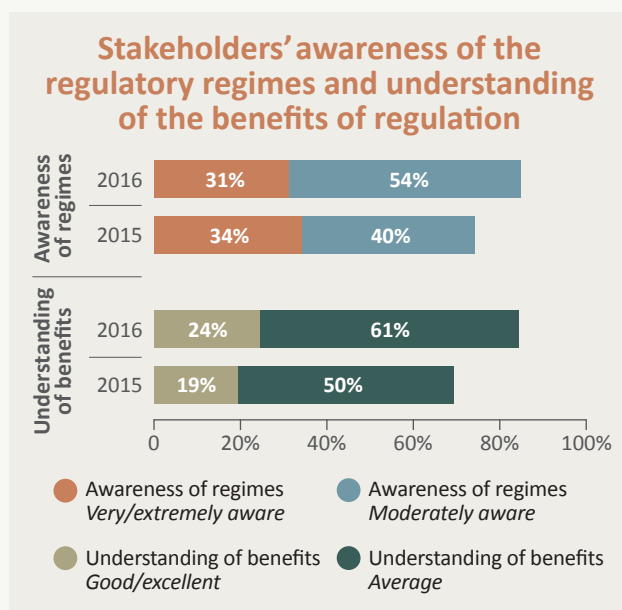
Telecommunications suppliers liable for the Telecommunications Development Levy (TDL) are required to comply with information specifications to enable the Commission to allocate the levy between suppliers. Four telecommunications network operators are also required to disclose information about their fibre networks under Part 4AA of the Telecommunications Act.



While we have not met our target of a year-on-year decrease in the number of information disclosure breaches, we are happy to maintain this at a very low level. We assess the compliance of around 50 businesses with information disclosure requirements and find a very low level of breaches overall.

The only breach this year was of Telecommunications Act TDL requirements by Woosh Wireless (NZ) Ltd, a company which went into voluntary administration in May 2016. A civil infringement notice with an infringement penalty for \$2,000 was issued to Woosh in April 2016.

Impact measure 5: Stakeholders’ understanding and awareness of the regulatory regimes and the benefits of regulation increases over time



We met our target of a year-on-year increase in the level of stakeholder awareness of regulatory regimes and understanding of the benefits of regulation.

The figures presented come from our annual stakeholders’ survey and are the averages across three questions about different stakeholder groups. The questions were asked of 162 stakeholders, with response rates ranging from 39% to 42% (excludes ‘don’t know’ responses). The questions asked stakeholders to rate awareness of regulatory regimes out of five options (extremely aware, very aware, moderately aware, slightly aware and not at all aware) and understanding of the benefits of regulation out of five options (excellent, good, average, poor, very poor).

Output measures

In our regulation work we provide outputs in three areas:

→ **Determinations** – we set incentives for regulated businesses to provide long-term benefits to consumers

→ **Public reports and advice to officials** – we publish reports on supplier performance and provide advice to officials on aspects of regulation

→ **Compliance and enforcement** – we detect and respond appropriately to conduct that does not comply with the Acts the Commission administers.

	2016 target	2016 actual	2015 actual	2014 actual	2013 actual	2012 actual
Determinations						
Number of determinations (includes determinations, clarifications, reviews and amendments)	Total: 17-32 Telecommunications: 4-5 Gas: 6-10 Electricity: 5-11 Airports: 2-5 Dairy: 0-1	Total: 24 Telecommunications: 6 Gas: 7 Electricity: 8 Airports: 3 Dairy: 0	30	24	24	31
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	Gas: 100% Electricity: 100% Airports: 100%	Gas: 100% Electricity: 100% Airports: 100%	100%	100%	100%	100%
Average time to complete telecommunications determinations ⁵	6 months	4 months	4 months	10 months	7 months	5 months
Completion date for unbundled bitstream access (UBA) and unbundled copper local loop (UCLL) final pricing principle (FPP) determinations	By 31 December 2015 ⁶	15 December 2015	Expected by 31 December 2015	Not measured	Not measured	Not measured
Average time taken to complete dairy determinations	120 working days	N/A – no determinations	N/A – no determinations	N/A – no determinations	N/A – no determinations	N/A – no determinations
Percentage of stakeholders who find the Commission's determinations and supporting reasons clear	80%	66%	45%	N/A – not comparable	N/A – not comparable	Not measured
All input methodologies (other than the Transpower capital expenditure input methodology) are reviewed by the end of 2016/17 ⁷	Achieved	On track ⁸	Not measured	Not measured	Not measured	Not measured

5. This measure excludes the UBA and UCLL FPP determinations as they are distinct, longer-term processes. Inclusion in this measure would skew the average for the year in which they are completed so it was no longer comparable with other years.

6. We amended the deadline for the UBA and UCLL FPP determinations from 30 September 2015 to 31 December 2015 in March 2015. We have reported against our SPE 2015/16 target, but the target in the Estimates differs slightly from this due to a timing difference in when each of these documents is finalised. This change in deadline was to enable full consultation on non-recurring charges and to provide additional time for consultation on new material.

7. This measure was added to the Supplementary Estimates of Appropriations 2015/16 but was not included in our SPE 2015/16 as our work on this had not commenced when the SPE 2015/16 was released. As this is a new measure, there is no comparative historical information.

8. We are considering deferring a number of areas as it is more appropriate to complete these later in 2017. This includes the rules around related parties and gas default price-quality paths (including the input methodologies for the incremental rolling incentive scheme applying to customised price-quality paths).

	2016 target	2016 actual	2015 actual	2014 actual	2013 actual	2012 actual
Public reports and advice to officials						
Number of reports completed (monitoring reports, summary and analysis reports, information disclosure reports, ministerial reports)	Total: 9-12 Telecommunications: 3 Gas: 1-2 Electricity: 2-3 Airports: 1 Dairy: 2-3	Total: 12 Telecommunications: 4 Gas: 2 Electricity: 2 Airports: 1 Dairy: 3	Total: 7	12	9	10
Number of substantial pieces of advice provided to officials to inform policy design (demand driven)	Total: 3-17 Telecommunications: 1-3 Gas: 0-2 Electricity: 0-5 Airports: 1-4 Dairy: 1-3	Total: 3 Telecommunications: 1 Gas: 0 Electricity: 1 Airports: 0 Dairy: 1	Total: 1	3	6	14
Percentage of stakeholders who rate our reports good or above	80%	69%	60%	N/A – not comparable	N/A – not comparable	Not measured
Percentage of reports completed within the agreed timeframes	100%	92%	100%	100%	100%	100%
Compliance and enforcement						
Number of compliance assessments completed	Total: 61-62 Telecommunications: 0-1 Gas: 10 Electricity: 48 Airports: 3	Total: 64 Telecommunications: 2 ⁹ Gas: 10 Electricity: 48 Airports: 3	Total: 62	54	69	33
Number of enforcement cases taken or settled	Telecommunications: 0-1 Gas: 0-1 Electricity: 0-1 Airports: 0-1	Telecommunications: 1 Gas: 0 Electricity: 0 Airports: 0	2	1	0	1
Percentage of compliance assessments completed within the agreed timeframes	100%	100%	100%	95%	90%	60%
Quality measure for all outputs						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	2



9. For telecommunications compliance assessments, we conduct a number of assessments of information provided by telecommunication providers each year but this figure only includes the assessments that require further, more detailed investigation when we suspect a breach may have taken place. This figure varies each year as it depends on the conduct of providers.

The number of determinations we make each year varies as some are statutory requirements while others are demand driven, for example where businesses request an amendment to an input methodology or information disclosure requirement.

Our stakeholder survey asked stakeholders whether they agreed that the Commission’s determinations and supporting reasons were clear and easy to understand (out of five options). Our response rate for this measure was 39%. A change to our method of collecting data for this measure means the figures from before 2015 are not comparable.

The number of reports we complete each year varies depending on our work programme, our statutory obligations and demand from officials. The provision

of advice to inform policy design is demand driven and we continue to respond to requests from officials when required. This year we provided advice to MBIE on its review of barriers to innovation in electricity supply.

Our stakeholder survey asked stakeholders to rate the quality of our reports (out of five options). Our response rate for this measure was 39%. A change to our method of collecting data for this measure means the figures from before 2015 are not comparable.

The target for 100% of reports to be completed within the agreed timeframes was not achieved due to the report into Christchurch Airport’s pricing re-disclosure being delayed by seven working days from the originally agreed (self-imposed) timeframe.

Finances

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

Vote Business, Science and Innovation:

- Economic Regulation of Electricity Lines Services 2014-2019 (multi-year appropriation)
- Economic Regulation of Gas Pipeline Services 2014-2019 (multi-year appropriation)
- Economic Regulation of Specified Airport Services 2014-2019 (multi-year appropriation)

→ Enforcement of Dairy Sector Regulation and Auditing of Milk Price Setting

→ Enforcement of Telecommunications Sector Regulation.

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

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

Consolidated regulation finances

	2016 Actual \$000	2016 Budget \$000
Operating revenue		
Crown revenue	16,681	18,405
Other revenue	829	367
Total operating revenue	17,510	18,772
Operating expenses		
Determinations	12,093	11,686
Compliance and enforcement	1,278	2,022
Public reports and advice to officials	4,139	5,064
Total operating expenses	17,510	18,772
SURPLUS	0	0

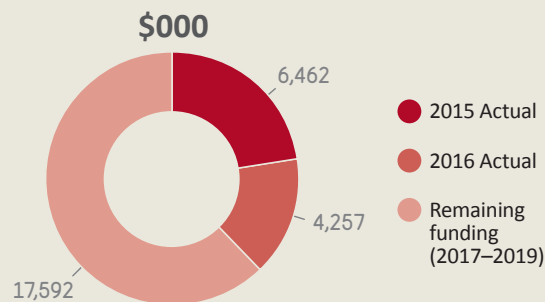
Telecommunications

	2016 Actual \$000	2016 Budget \$000
Operating revenue		
Crown revenue	5,498	6,000
Other revenue	655	311
Total operating revenue	6,153	6,311
Operating expenses		
Determinations	4,144	3,889
Compliance and enforcement	242	484
Public reports and advice to officials	1,767	1,938
Total operating expenses	6,153	6,311
SURPLUS	0	0

Expenditure in the telecommunications output class was below budget. Determinations expenditure was higher than budget due to extensions to the timeframes of the UBA and UCLL FPP determinations. This overspend was offset by lower expenditure in the compliance and public reports work streams. Other revenue includes \$0.5 million from invoicing applicants for a portion of the FPP costs.

Electricity lines services

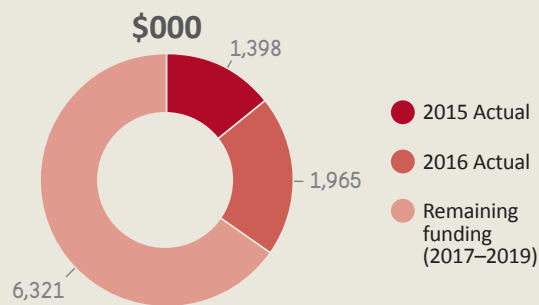
	2016 Actual \$000	2016 Budget \$000
Operating revenue		
Crown revenue	4,257	5,211
Other revenue	82	25
Total operating revenue	4,338	5,236
Operating expenses		
Determinations	2,728	3,001
Compliance and enforcement	819	1,200
Public reports and advice to officials	792	1,035
Total operating expenses	4,338	5,236
SURPLUS	0	0



Expenditure in the electricity output class was less than budget. Expenditure in all three work streams was lower than expected. The underspend was due to lower than anticipated staff activity on electricity projects and less expenditure on external contractors and consultants.

Natural gas pipeline services

	2016 Actual \$000	2016 Budget \$000
Operating revenue		
Crown revenue	1,965	1,906
Other revenue	49	8
Total operating revenue	2,014	1,914
Operating expenses		
Determinations	1,708	1,353
Compliance and enforcement	170	243
Public reports and advice to officials	136	318
Total operating expenses	2,014	1,914
SURPLUS	0	0

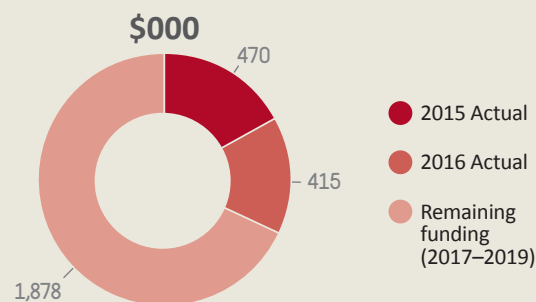


Gas expenditure was \$0.1 million higher than budget. Expenditure in the determinations work stream was significantly higher than expected due to the bringing forward of the default price-quality path (DPP) reset work to align with the input methodologies seven-year review. This work was originally expected to begin in the 2017 financial year. Higher determinations costs were partially offset by savings in the compliance and public reports areas.



Airport services

	2016 Actual \$000	2016 Budget \$000
Operating revenue		
Crown revenue	415	424
Other revenue	4	2
Total operating revenue	419	426
Operating expenses		
Determinations	315	222
Compliance and enforcement	47	71
Public reports and advice to officials	57	133
Total operating expenses	419	426
SURPLUS	0	0



Expenditure in the airports output class was less than budget. Expenditure in the determinations work stream was higher than expected. This was due to additional costs associated with the improvements to profitability assessment work, a combined input methodologies and information disclosure amendment project. Higher determinations costs were offset by savings in the compliance and public reports areas.



Input methodologies

	2016 Actual \$000	2016 Budget \$000
Operating revenue		
Crown revenue	3,170	3,170
Other revenue	28	15
Total operating revenue	3,198	3,185
Operating expenses		
Determinations	3,198	3,185
Total operating expenses	3,198	3,185
SURPLUS	0	0

Expenditure in the input methodologies output class was in line with budget. Higher than budgeted internal staff costs were offset by lower external consultant and contractor expenditure. Draft decisions were published in June 2016 and the final determinations are due in December 2016.

Dairy

	2016 Actual \$000	2016 Budget \$000
Operating revenue		
Crown revenue	1,376	1,694
Other revenue	11	6
Total operating revenue	1,387	1,700
Operating expenses		
Determinations	0	24
Compliance and enforcement	0	36
Public reports and advice to officials	1,387	1,640
Total operating expenses	1,387	1,700
SURPLUS	0	0

Expenditure in the dairy output class was below budget in all areas. There were no determinations required during this year and no compliance inquiries were received. Expenditure related to the reviews of Fonterra's 2015/16 milk price manual and 2015/16 base milk price calculation was lower than budget, as were the costs of completing the DIR Act competition review report.

Appropriation funding

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

	Estimates \$000	Supplementary Estimates \$000	Actual \$000	Difference vs Supplementary Estimates \$000
Vote Business, Science and Innovation (BSI): Enforcement of Telecommunications Sector Regulation				
Crown revenue	6,000	6,000	5,498	(502)
Vote BSI: Input Methodologies for Economic Regulation				
Crown revenue	0	3,170	3,170	0
Vote BSI: Enforcement of Dairy Sector Regulation and Auditing of Milk Price Setting				
Crown revenue	1,772	1,772	1,376	(396)
Vote BSI: Economic Regulation of Electricity Lines Services 2014-2019 (MYA)				
Cumulative funding to 1 July 2015	6,770	7,244	7,244	0
Crown revenue	5,211	4,530	4,257	(273)
Cumulative funding to 30 June 2016	11,981	11,774	11,501	(273)
Remaining appropriation	16,330	17,319	17,592	273
Total appropriation	28,311	29,093	29,093	0
Vote BSI: Economic Regulation of Gas Pipeline Services 2014-2019 (MYA)				
Cumulative funding to 1 July 2015	2,088	1,580	1,580	0
Crown revenue	1,906	2,044	1,965	(79)
Cumulative funding to 30 June 2016	3,994	3,624	3,545	(79)
Remaining appropriation	5,690	6,242	6,321	79
Total appropriation	9,684	9,866	9,866	0
Vote BSI: Economic Regulation of Specified Airport Services 2014-2019 (MYA)				
Cumulative funding to 1 July 2015	598	597	597	0
Crown revenue	424	396	415	19
Cumulative funding to 30 June 2016	1,022	993	1,012	19
Remaining appropriation	1,741	1,897	1,878	(19)
Total appropriation	2,763	2,890	2,890	0

MAJOR LITIGATION

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

Our litigation workload varies considerably each year based on:

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

We use the litigation fund in accordance with the conditions established for using the fund.

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

	2016 Actual \$000	2016 Budget \$000
Externally-sourced litigation		
Operating revenue		
Crown revenue	3,838	6,538
Total operating revenue	3,838	6,538
Operating expenses		
Competitive markets	1,892	3,990
Fair Trading Act	1,215	1,541
CCCF Act	320	296
Regulation	0	300
Total operating expenses	3,427	6,127
SURPLUS	411	411
Internally-sourced litigation		
Operating revenue		
Crown revenue	2,899	3,423
Other revenue	44	23
Total operating revenue	2,943	3,446
Operating expenses		
Competitive markets	1,694	2,005
Fair Trading Act	746	750
CCCF Act	270	332
Regulation	233	359
Total operating expenses	2,943	3,446
SURPLUS	0	0

Externally-sourced litigation expenditure was below budget due to quicker resolution of matters and therefore less expenditure being incurred than originally budgeted for on existing cases. In addition, the budgeted provision for new cases was in excess of the requirements for new litigation entering the fund during the year.

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

Crown revenue includes additional funding above operating expenditure of \$0.411 million to fund a

litigation costs reserve. This reserve is used to help fund any adverse costs awards that may be awarded against the Commission. At 30 June 2016 the balance of the reserve had reached its cap of \$3.0 million.

Appropriation funding

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

	Estimates \$000	Supplementary Estimates \$000	Actual \$000	Difference vs Supplementary Estimates \$000
Commerce Commission externally-sourced litigation				
Crown revenue	7,000	7,000	3,838	(3,162)
Commerce Commission internally-sourced litigation				
Crown revenue	3,500	3,500	2,899	(601)
Total	10,500	10,500	6,737	(3,763)



ORGANISATION CAPABILITY AND HEALTH

Our values

The Commission strives for excellence across our organisation. Our values, shown here, are well established and we aim to uphold them in all our actions.

EXCELLENCE

- > We produce excellent work that stands up to scrutiny
- > We continually look for ways to improve
- > We recruit and retain excellent people and support their development

INTEGRITY

- > Our independence inspires the trust and confidence of New Zealanders
- > We are fair, honest and impartial

ACCOUNTABILITY

- > We answer to New Zealanders for the work we do and the money we spend
- > We take individual responsibility to deliver what we say we will

RESPECT

- > We work together, and support and respect each other
- > We value the diversity of people and their opinions

GOOD JUDGEMENT

- > We understand the environment in which we operate and the impact of our actions
- > What we do is relevant and useful
- > We are proactive and flexible and look for common-sense solutions

Being a good employer

We maintain a clear focus on leadership, workforce development, management of people and performance, and engagement with our employees. We have also made the most of the diverse talent pool currently at the Commission by promoting

equal employment opportunities (EEO).

The table below outlines our achievements against the seven key elements of being a good employer, as set out by the New Zealand Human Rights Commission.

Elements	Initiatives
Leadership, Accountability and Culture	<p>We conducted our fifth annual employee survey in March 2016. There were noticeable improvements in our scores for the Communication and Cooperation area. Overall we remain well placed against the State Sector Benchmark.</p> <p>We continue to strengthen our leadership capability. All managers and team leaders have completed a management development or people leader programme. We continue to support managers through coaching and other development initiatives.</p> <p>We have an EEO programme and policy which link to our values. We have a programme underway to promote cultural awareness and are implementing several initiatives including te reo Māori training and unconscious bias workshops.</p> <p>We provide opportunities for all employees to participate in developing and maintaining a positive, safe, professional and enjoyable workplace. We continue to review and implement new policies to support our people and culture.</p>
Recruitment, Induction and Selection	<p>We continue to ensure we attract and retain high-calibre and capable people. We are focused on making strategic hiring decisions to enable us to be well placed for the future.</p> <p>We have updated our induction programme to ensure it meets our current and future needs.</p>
Employee Development, Promotion and Exit	<p>Our learning and development framework continues to support our organisational capability. Our Commission-wide training programme provides development opportunities for all staff. This is supplemented with targeted development programmes for individuals. As part of our capability process, all employees have a development plan that is agreed annually.</p> <p>We have created additional career path opportunities for specialist roles.</p>
Flexibility and Work Design	<p>We have a new flexible working policy and leave policy in place. We continue to accommodate and support flexible working arrangements to suit personal needs and circumstances. The deployment of mobile devices to all staff and Commissioners is a key part of the overall drive for improved staff mobility and flexible working arrangements.</p>
Remuneration, Recognition and Conditions	<p>We adhere to the Government's expectations for Pay and Employment Conditions in the State Sector. Our remuneration strategy is reviewed each year to ensure this supports our recruitment and retention strategies.</p>
Harassment and Bullying Prevention	<p>Our organisational values, together with our Code of Conduct and our Harassment Policy, detail our expected behaviours. We continue to reinforce and promote our values, and we have a zero tolerance of harassment and bullying.</p>
Safe and Healthy Work Environment	<p>We have reviewed and updated our health, safety and wellness framework to ensure we maintain a healthy and safe work environment, and comply with the new workplace health and safety laws.</p> <p>We have processes and practices in place that ensure the Commission provides a healthy and safe work environment, including safe operating procedures for a number of potential risks specific to our business.</p> <p>Our induction programme, trained health and safety representatives, and ongoing health and safety education programmes ensure all employees are well informed about their health and safety.</p> <p>We have a new Wellness Programme in place which offers a range of health initiatives to help support and maximise employees' health and wellbeing.</p>

Developing improved capabilities

Maintaining and improving organisational health and capability is essential in helping us to achieve our outcomes. We continue to focus our capability improvement around three themes – connect,

people and efficiency. Providing the right environment, tools, support and leadership enables our people to do their jobs effectively and grow our capability as an organisation.

Connect

- Won a 'Best Plain English Document – Public Sector' award for our Know Your Rights credit brochure
- Launched an animation series titled *It's All Good* to raise awareness of consumer rights
- Held analyst and media briefings on key regulation decisions and determinations
- Continued our annual stakeholder briefings
- Moved to larger offices to increase our presence in Auckland
- Engaged with international competition, consumer and regulatory agencies

People

- Commenced initiatives for a new cultural awareness programme, including te reo Māori sessions
- Developed and implemented a flexible working policy
- Implemented the requirements of the new Health and Safety at Work Act
- Continue to score above the State Sector Benchmark for employee engagement
- Launched Wellness Programme

Efficiency

- Rolled out improved collaboration tools including meeting room technology and video conferencing
- Moved to shared reception facilities with the Tertiary Education Commission
- Upgraded our accommodation to modern workspaces, in conjunction with seismic strengthening work in our building
- Progressed two major core business projects aimed at utilising IT to improve efficiency



Evaluating our capability and health

In our SOI 2014-2018 we set out four measures to monitor our organisational health and capability. We do not set targets for the staff turnover and average years of service measures but aim to ensure these reflect a healthy level.

The State Sector Benchmark (SSBM) represents the median score of the public sector agencies that use

the same survey as the Commission.

We self-assess our administrative and support costs annually using the Benchmarking Administrative and Support Services framework, though we are not directly involved in the programme. Results for 2016 are not available until after the annual report is published.

	2016	2015	2014	2013	2012
Overall level of employee engagement shows an improvement year on year	68.6%	72.4%	73.4%	71.7%	68.8%
	SSBM: 67.9%	SSBM: 68.6%	SSBM: 68.1%	SSBM: 68.8%	SSBM: 69.3%
The percentage of total organisation running costs spent on administrative and support functions decreases year on year	Results not available until 2017	14%	14.2%	13.7%	13.2%
Employee turnover	11.6%	7.5%	13%	15%	16%
The average number of years of experience of our employees (with the Commerce Commission)	5.7	5.5	5.3	6	5.2

Profile of our people

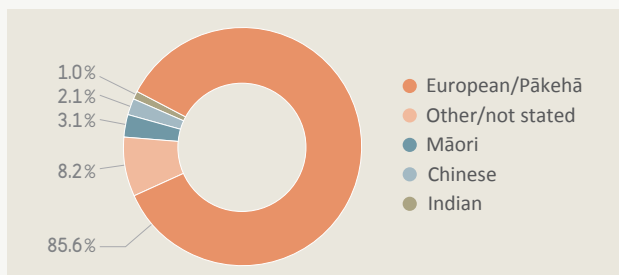
at 30 June 2016

	2016	2015	2014	2013	2012
Number of employees (FTE)	195	198	178	173	169
Male	58%	58%	55%	54%	50%
Female	42%	42%	45%	46%	50%
Percentage of employees on flexible working arrangements	14.8%	14.2%	11%	14%	11%

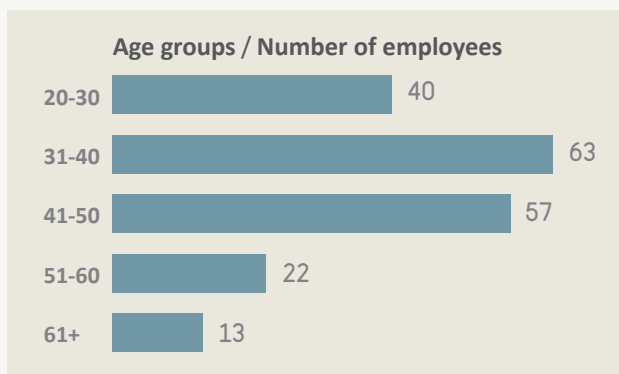
Disability profile:

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

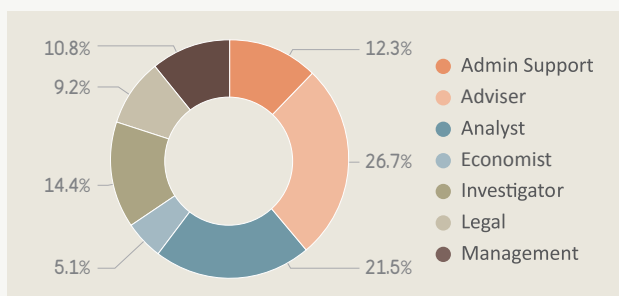
Ethnicity profile:



Age profile:



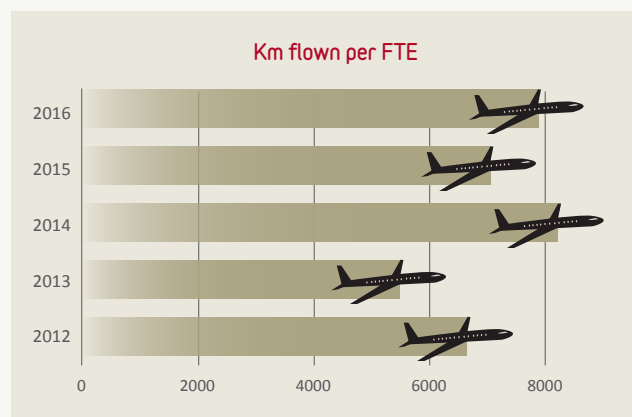
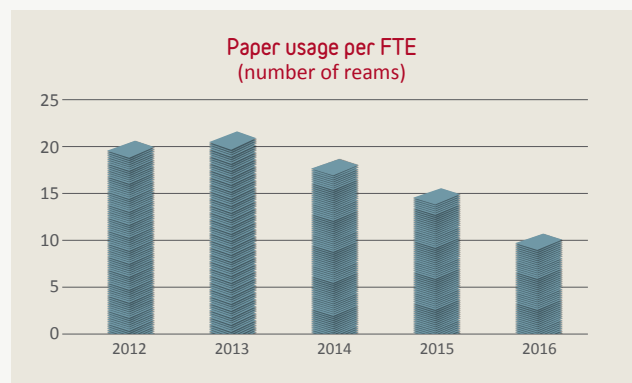
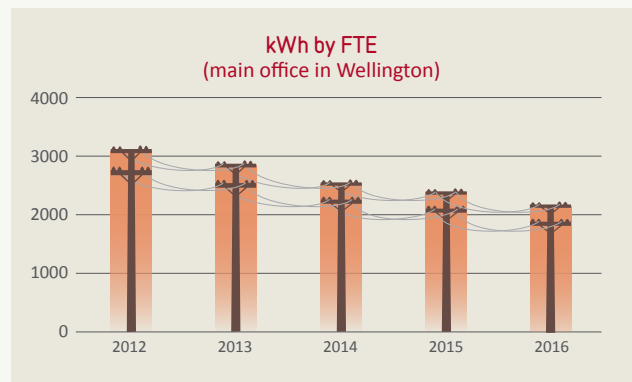
Occupation profile:



Environmental sustainability

We are committed to sustainability and to minimising our impact on the environment. We monitor our flight, paper and energy use and have implemented or are planning initiatives with sustainability benefits.

We have installed energy efficient lighting in our accommodation and upgraded our afterhours air conditioning system to allow staff to activate the afterhours air conditioning only for the area in which they sit. Following the deployment of mobile devices and follow-you printing in 2015, we have seen a significant reduction in paper usage.



GOVERNANCE

Board and Commissioner responsibilities

The Governor-General, on the recommendation of the Minister of Commerce, appoints Commission Members for their knowledge of, and experience in, areas relevant to the Commission's responsibilities. The Telecommunications Commissioner is appointed on the recommendation of the Minister for Communications. Associate Commissioners are appointed by the Minister of Commerce.

Decision making

The Commission's functions and powers are conferred and limited by legislation. The Board has a wide range of formal decision-making powers and makes decisions or determinations that determine or otherwise significantly affect the legal rights, duties and interests of others.

Governance of the organisation

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

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

Managing risk

We actively manage risk at the Commission to increase the likelihood of achieving our objectives. The Board is responsible for reviewing and approving our risk management framework but delegates day-to-day

management of risk to the Chief Executive. This delegation ensures that risk is seen as part of the overall business process, with a robust framework of identification, evaluation, monitoring and control in place.

Health and safety

The Board has overall responsibility for managing health and safety, including exercising due diligence to ensure the Commission complies with its duties under the Workplace Health and Safety (WHS) laws and actively engaging in matters affecting the health and safety and wellness of staff.

Conflicts of interest

The Commission Board maintains a register of interests. The register ensures Board members are aware of their obligation to declare interests in accordance with the relevant provisions of the Crown Entities Act.

Ministerial directions

The Minister of State Services and the Minister of Finance have communicated the following directions to the Commission under section 107 of the Crown Entities Act 2004:

- Direction regarding procurement functional leadership (*New Zealand Gazette*, 19 June 2014) – the Commission revised our procurement policy and processes to comply with the Government Rules of Sourcing in support of a whole-of-government approach to procurement
- Direction to support a whole-of-government approach to the New Zealand Business Number (NZBN) (*New Zealand Gazette*, 14 July 2016) – the Commission is in the process of developing a new IT system, which will integrate the NZBN as the primary identifier for businesses. We are also implementing lookup functions that will bring business data into the system from the NZBN database. This work is in progress and will be in use by February 2017.

Commission Member profiles

As at 30 June 2016 the Commissioners were: Dr Mark Berry (Chairman), Sue Begg (Deputy Chair), Dr Stephen Gale (Telecommunications Commissioner), Elisabeth Welton, Anna Rawlings and Dr Jill Walker. Graham Crombie and Sarah Court were Associate Commissioners.

Pat Duignan's terms as Commissioner concluded on 30 November 2015 and he was replaced by Dr Jill Walker. Graham Crombie was appointed as an Associate Commissioner in July 2015 and Sarah Court was cross-appointed from the Australian Competition and Consumer Commission (ACCC) in December 2015.



Dr Mark Berry

Chairman

Dr Mark Berry was appointed Chairman in April 2009 and his term expires in March 2019. Mark is a former partner of law firm Bell Gully and former consultant with Chapman Tripp. Mark has been in practice as a barrister sole since 2002 and holds a doctorate from Columbia University, New York. He is a former member of the faculty at Otago University Law School, and is a member of the International Advisory Board at the Institute for Consumer Antitrust Studies at Loyola University Chicago School of Law. Mark is also an Associate Member of the ACCC, a position he will hold until 31 March 2019.



Sue Begg

Deputy Chair

Sue Begg was appointed as a Commissioner in June 2009 and Deputy Chair in July 2010. Her term was renewed for a further 5 years in June 2014. She was also appointed as an Associate Member of the ACCC in April 2016. 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.



Dr Stephen Gale

Telecommunications Commissioner

Dr Stephen Gale was appointed as the Telecommunications Commissioner in July 2012. Prior to that, he had been an Associate Commissioner since July 2010. Stephen has specialised for some years in infrastructure economics (energy, telco and transport) and competition proceedings at the consulting firm Castalia. Before that he was at the New Zealand Institute of Economic Research. He holds a PhD from the University of Cambridge.



Anna Rawlings

Commissioner

Anna Rawlings was appointed as a Commissioner in June 2014. 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 was focused in law and economics.



Elisabeth Welson

Commissioner

Elisabeth Welson was appointed in September 2012 as Associate Commissioner and as a Commissioner on 19 August 2013. Before joining the Commission, Elisabeth 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. She 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.



Dr Jill Walker

Commissioner

Dr Jill Walker commenced her term as a Commissioner on 1 December 2015, following her appointment as an Associate Commissioner in November 2010. She was a Commissioner of the ACCC in Australia from September 2009 to April 2016. Before joining the ACCC, Jill was a Member of the Australian Competition Tribunal and worked as an economic consultant. She holds a BA in economics and a PhD in land economy

from the University of Cambridge. She also holds a Masters degree in economics from the University of Massachusetts.



Graham Crombie

Associate Commissioner

Graham Crombie was appointed in July 2015 as an Associate Commissioner for a five-year term. Graham is a Fellow of Chartered Accountants ANZ and a Chartered Fellow of the Institute of Directors. He is a previous President and Chairman of the New Zealand Institute of Chartered Accountants. Graham has a Bachelor of Commerce from Otago University and was awarded a Master of Design Enterprise. He has 30 years'

experience in professional services firms specialising in audit and consulting. Since 2013 he has been acting as an independent director to a range of organisations in both the private and public sector.



Sarah Court

Associate Commissioner

Sarah Court was cross-appointed from the ACCC as an Associate Commissioner in December 2015. She has been a Commissioner of the ACCC since April 2008, being reappointed for a further five-year term in 2013. She is a former senior executive lawyer and director with the Australian Government Solicitor. She has extensive experience in Commonwealth legal work, including restrictive trade practices, consumer

protection and law enforcement litigation. As Chair of the ACCC's Enforcement Committee, Sarah oversees the agency's enforcement and litigation programme. She also sits on the ACCC's Merger Review Committee, Adjudication Committee and Infrastructure Committee.

The Hon Sir Bruce Robertson KNZM and Michael Behrens QC are Cease and Desist Commissioners.

In April 2014 Fred Hutchings (FCA) was appointed as our first external Convenor of the Audit, Finance and Risk Management Committee, a role formerly performed by a Commission Member. Fred was a partner with PricewaterhouseCoopers and now holds several governance roles including Chairman of Seeka Kiwifruit Industries Ltd, Chairman of the OAG Audit and Risk Committee, and former Chairman of the Ministry of Foreign Affairs and Trade Audit and Risk Committee. He is also a past President of Chartered Accountants Australia and New Zealand.

Senior leadership team profiles



Brent Alderton

Chief Executive

Brent Alderton is the Chief Executive of the Commerce Commission in New Zealand, a role he has held since January 2011. Brent joined the Commission in 2009 and held the role of General Manager Regulation immediately prior to becoming Chief Executive. Before joining the Commission, Brent gained a broad range of business experience in both the private and public sector in New Zealand. This includes a variety of finance, strategy, policy and analysis roles at organisations such as New Zealand Oil and Gas Limited, Deloitte, the Electricity Corporation, the Treasury and the Department of Social Welfare. Brent has a BA (Hons) in economics and an MA in political studies from the University of Otago.



Nick Russ

General Manager Regulation (from April 2016)

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



Antonia Horrocks

General Manager Competition (from August 2016)

Antonia Horrocks is General Manager Competition and manages the Commerce Commission's competition branch. She joined the Commission in August 2016 and was previously a Project Director at the UK Competition & Markets Authority, managing competition and consumer cases. She held a similar role at the UK Competition Commission. Prior to joining the regulator, she worked as an antitrust lawyer in London for nearly a decade, most recently as Counsel in the Antitrust Group of Shearman & Sterling (LLP) in London. She started her career in New Zealand and has a law degree, a BA (Hons) in English and a Postgraduate Diploma in EU Competition Law.



Geoff Williamson

General Manager Organisation Performance

Geoff Williamson joined the Commission in July 2011 and leads the organisation performance branch. Geoff was previously Director Corporate Services at the Tertiary Education Commission and his previous work experience includes Chief Financial Officer at the National Library of New Zealand and a range of roles at Deloitte. Geoff has a BCA from Victoria University of Wellington and an Executive Master of Public Administration through the Australia and New Zealand School of Government, and is a Chartered Accountant.

This year we said farewell to two members of our senior leadership team. John Hamill was General Manager Regulation from January 2011 to January 2016 and Kate Morrison was General Manager Competition from December 2009 to April 2016. We thank them for the outstanding contribution they made to the Commission in their time here and wish them all the best for the future.

Commonly used terms

Appropriation	A parliamentary authorisation for Ministers of the Crown or an Office of Parliament to incur expenses or capital expenditure.
Authorisation	Under the Commerce Act, certain agreements and mergers are prohibited as they can lead to anti-competitive outcomes, such as increased prices or lack of choice. However, the Commerce Act recognises that in some circumstances an anti-competitive transaction may lead to sufficient public benefits that would outweigh the competitive harm. In this case the Commission can grant an authorisation for the agreement or merger to proceed.
Base milk price	The term used in the Dairy Industry Restructuring Act 2001 to refer to the farm gate milk price that is set by Fonterra. The farm gate milk price is the price paid by dairy processors to dairy farmers for raw milk. The purchase of raw milk from farmers at the base milk price is Fonterra's largest input cost.
Clearance	Under the Commerce Act, the Commission can grant a clearance for a proposed merger if we are satisfied that it is not likely to substantially lessen competition in a market.
Commerce Act 1986 (Parts 2, 3 and 5)	Prohibits anti-competitive behaviour and acquisitions that substantially lessen competition. Provides for a clearance and authorisation regime allowing businesses to apply for pre-approval of a merger or certain restrictive trade practices.
Commerce Act 1986 (Part 4)	Part 4 provides for 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.
Coordinated behaviour cases	Investigations into agreements between competitors not to compete with each other such as: price fixing; the restriction of outputs; the allocation of customers, suppliers or territories; and bid rigging.
Credit Contracts and Consumer Finance Act 2003 (CCCF Act)	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, responsible lending, and unforeseen hardship, and sets out rules about interest, payments and credit fees.
Dairy Industry Restructuring Act 2001 (DIR Act)	Promotes the efficient operation of dairy markets in New Zealand by regulating the activities of Fonterra to ensure New Zealand markets for dairy goods and services are contestable.
Determination	A formal and binding decision made by the Commission under the legislation it administers.
Enforceable undertakings	Enforceable undertakings are a form of out-of-court agreement where a business commits to altering its behaviour. The Commission may seek enforceable undertakings where it believes a business is not complying with the law. These are a particularly useful tool to quickly stop potentially non-compliant conduct. If the business does not comply with the undertaking the Commission can apply to the court to enforce it.
Fair Trading Act 1986 (FT Act)	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.
FPP	Final pricing principle as per the Telecommunications Act 2001.
Impact	Contribution made to an outcome by a specified set of outputs, or actions, or both.
Infringement notices	The Commission can issue infringement notices with fines of up to \$2,000 for certain offences under the FT and the CCCF Acts. We can also issue civil infringement notices for certain contraventions of the Telecommunications Act with a prescribed penalty of \$2,000.
Information disclosure	Under Part 4 of the Commerce Act (subpart 4), sufficient information is to be readily available to interested persons so that they can assess whether the purpose of Part 4 is being met.
Input methodologies	This involves setting upfront regulatory rules, processes and requirements applying to regulation under Part 4, and for undertaking Part 4 inquiries (eg, rules for valuing assets and calculating the cost of capital).

Market structure cases	Investigations into mergers that might substantially lessen competition in a market and that do not have the protection of a clearance.
Merger	A merger is a combination of two or more business enterprises. Colloquially, mergers also include business acquisitions that involve the acquisition of assets or shares of a business, including partial acquisitions.
Outcomes	State or condition of society, the economy or the environment; includes a change in that state or condition.
Output class	An output class is a grouping of outputs or activities with similar objectives. A reportable class of outputs is a class of outputs the Crown entity proposes to supply in the financial year and that is directly funded (in whole or in part) by the Crown. The Commission's output classes are primarily funded by appropriations from the Crown via MBIE.
Outputs	Goods or services provided by the Commission.
Part 4	Part 4 of the Commerce Act. Under Part 4 of the Commerce Act, the Commission has a role regulating the price and quality of goods or services in markets where there is little or no competition and little prospect of future competition.
Price-quality path	Under Part 4 of the Commerce Act (subparts 9 and 10), non-exempt suppliers of electricity lines services and suppliers of gas pipeline services are subject to default/customised price-quality regulation. A default price-quality path (DPP) is the way the Commission determines appropriate price and quality controls for applicable regulated industries under Part 4 of the Commerce Act. A regulated business can apply for a customised price-quality path (CPP) when it has a specific need that isn't met by the DPP.
Product safety and information standards cases	Investigations of products such as bikes, cots and children's toys that might be unsafe, as well as the incorrect labelling of footwear and clothing, and failure to display required information on motor vehicles offered for sale.
Regulated supplier	A supplier of goods or services regulated under either the Commerce Act or the Telecommunications Act.
Substantial lessening of competition	A substantial lessening of competition concerns a real or substantial impact on a market in the way of a lessening, hindering or preventing of the process of workable or effective competition.
Substantiation	Businesses that make claims or imply something about their goods or services must have reasonable grounds for making those claims.
Telecommunications Act 2001	Regulates the supply of certain wholesale telecommunications services in New Zealand.
UBA	Unbundled bitstream access. Regulated service giving wholesale access to Chorus' Digital Subscriber Line (DSL) full speed broadband service. It allows telecommunications businesses to supply broadband services to customers without the need to replicate Chorus' electronics or software.
UCLL	Unbundled copper local loop. Wholesale access to the copper line connecting a phone user to the local exchange.
Unilateral conduct cases	Investigations into prohibited conduct by a single person or business, including taking advantage of a substantial degree of market power for an anti-competitive purpose, or specifying a minimum price at which its goods or services can be sold by another.
Vote	A grouping of one or more appropriations that are the responsibility of one or more Ministers of the Crown and are administered by one department.
Weighted average cost of capital (WACC)	The cost of capital is the financial return investors require from an investment given its risk.

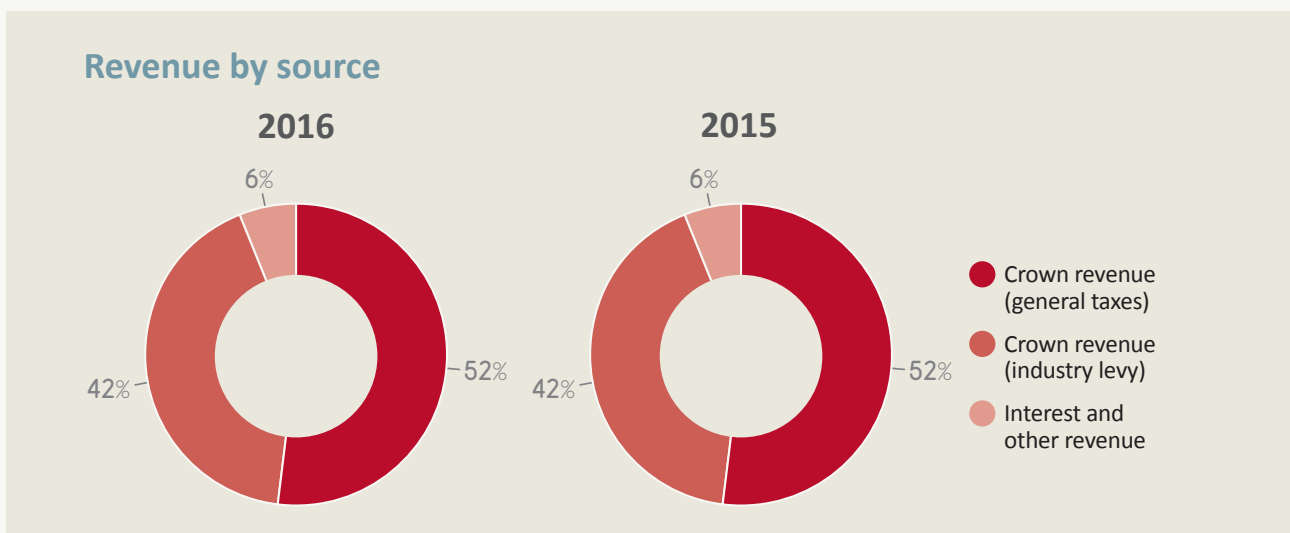
FINANCIAL PERFORMANCE

Financial statements overview

The Commission's financial results and our financial position show that we continue to operate sustainably. This section provides an overview of our financial statements for the year ended 30 June 2016.

Revenue

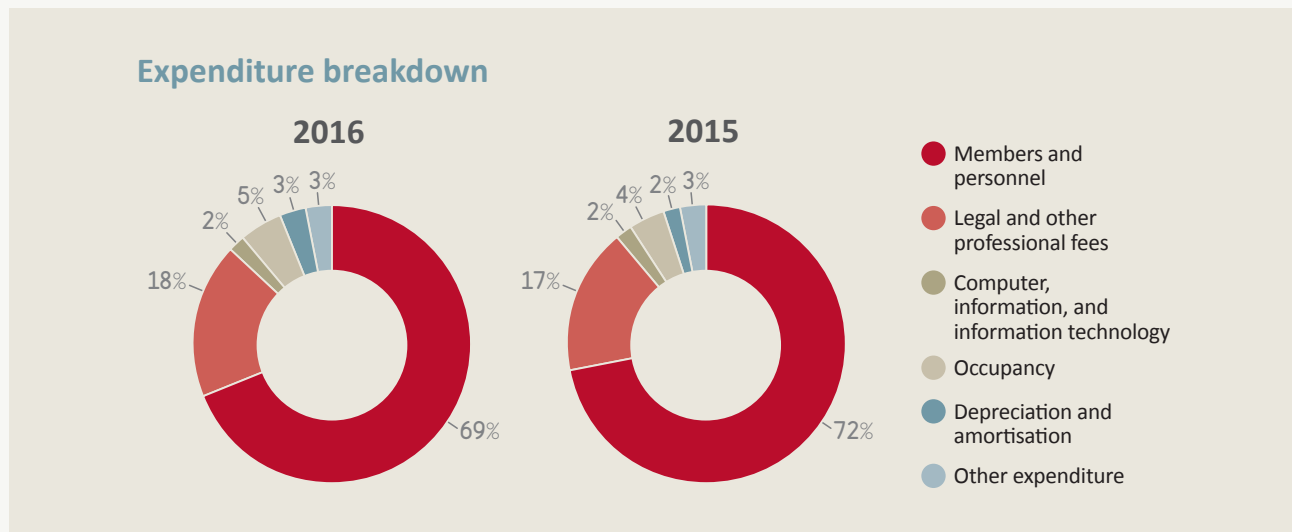
The Commission recorded revenue of \$39 million, compared to budgeted revenue of \$44 million for the financial year and revenue of \$37 million in the prior year. The largest contribution to our revenue is from the Crown, through a combination of general taxes and industry levies. Other sources of revenue include interest on cash we hold, court cost awards from litigation, and application fees paid by businesses seeking clearances and other determinations.



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

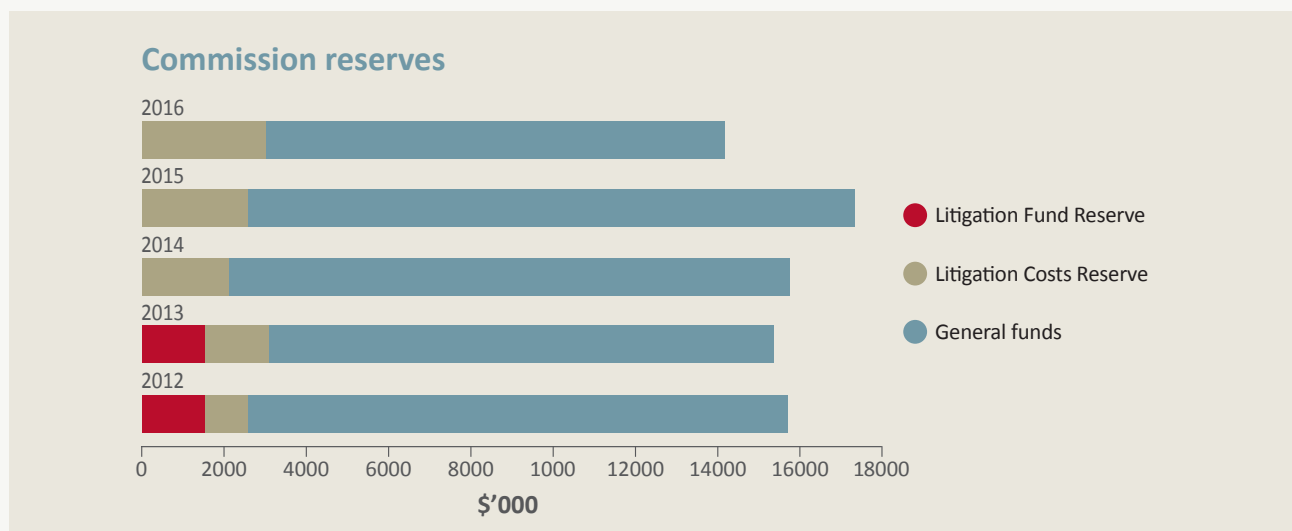
Expenditure

This year we spent a little over \$39 million, compared to a budgeted spend of \$44 million and a prior year spend of \$36 million. The graphs below show a breakdown of our expenditure by nature.



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

Financial position



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

The Commission's equity (or reserves) at 30 June 2016 was \$14.3 million, a decrease of \$3.1 million from 30 June 2015. This decrease is comprised of a \$411,000 uplift in our litigation costs reserve (for paying cost awards if we lose a major litigation case), a \$277,000 deficit in our competition and consumer output class, and a voluntary repayment of \$3 million to the Crown.

Statement of responsibility

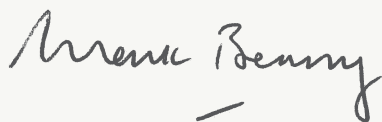
Under the Crown Entities Act 2004, the Board of the Commerce Commission is responsible for the preparation of the Commission's financial statements and statement of performance, and for the judgements made in them.

In addition, we are responsible for any end-of-year performance information provided by the Commission under section 19A of the Public Finance Act 1989.

The Board of the Commission is also responsible for establishing, and has established, a system of internal controls designed to provide reasonable assurance of the integrity and reliability of the Commission's 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 2016.

Signed on behalf of the Board:



Dr Mark Berry

Chairman – Commerce Commission

27 October 2016



Graham Crombie

Associate member – Commerce Commission

27 October 2016

Independent auditor's report

To the readers of the Commerce Commission's financial statements and performance information for the year ended 30 June 2016.

The Auditor-General is the auditor of the Commerce Commission (the Commission). The Auditor-General has appointed me, Ajay Sharma, 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 her behalf.

Opinion on the financial statements and the performance information

We have audited:

- the financial statements of the Commission on pages 53 to 77, that comprise the statement of financial position as at 30 June 2016, the statement of comprehensive revenue and expense, statement of changes in equity and statement of cash flows for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information; and
- the performance information of the Commission on pages 15 to 19 and 24 to 36.

In our opinion:

- the financial statements of the Commission:
 - > present fairly, in all material respects:
 - its financial position as at 30 June 2016; and
 - its financial performance and cash flows for the year then ended; and
 - > comply with generally accepted accounting practice in New Zealand and have been prepared in accordance with the Public Benefit Entity Reporting Standards.
- the performance information:
 - > presents fairly, in all material respects, the Commission's performance for the year ended 30 June 2016, including:
 - for each class of reportable outputs:
 - its standards of performance achieved as compared with forecasts included in the statement of performance expectations for the financial year;
 - its actual revenue and output expenses as compared with the forecasts included in the statement of performance expectations for the financial year;
 - what has been achieved with the appropriations; and
 - the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure.
 - > complies with generally accepted accounting practice in New Zealand.

Our audit was completed on 27 October 2016. This is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Commissioners and our responsibilities, and explain our independence.

Basis of opinion

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the International Standards on Auditing (New Zealand). Those standards require that we comply with ethical requirements and plan and carry out our audit to obtain reasonable assurance about whether the financial statements and the performance information are free from material misstatement.

Material misstatements are differences or omissions of amounts and disclosures that, in our judgement, are likely to influence readers' overall understanding of the financial statements and the performance information. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

An audit involves carrying out procedures to obtain audit evidence about the amounts and disclosures in the financial statements and the performance information. The procedures selected depend on our judgement, including our assessment of risks of material misstatement of the financial statements and the performance information, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the preparation of the Commission's financial statements and performance information 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.

An audit also involves evaluating:

- the appropriateness of accounting policies used and whether they have been consistently applied;
- the reasonableness of the significant accounting estimates and judgements made by the Commissioners;
- the appropriateness of the reported performance information within the Commission's framework for reporting performance;
- the adequacy of the disclosures in the financial statements and the performance information; and
- the overall presentation of the financial statements and the performance information.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and the performance information. Also, we did not evaluate the security and controls over the electronic publication of the financial statements and the performance information.

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

Responsibilities of the Commissioners

The Commissioners are responsible for preparing financial statements and performance information that:

- comply with generally accepted accounting practice in New Zealand;
- present fairly the Commission's financial position, financial performance and cash flows; and
- present fairly the Commission's performance.

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

The Commissioners are responsible for such internal control as it determines is necessary to enable the preparation of financial statements and performance information that are free from material misstatement, whether due to fraud or error. The Commissioners are also responsible for the publication of the financial statements and the performance information, whether in printed or electronic form.

Responsibilities of the Auditor

We are responsible for expressing an independent opinion on the financial statements and the performance information and reporting that opinion to you based on our audit. Our responsibility arises from the Public Audit Act 2001.

Independence

When carrying out the audit, we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the External Reporting Board.

Other than the audit, we have no relationship with or interests in the Commission.



Ajay Sharma
Audit New Zealand

On behalf of the Auditor-General
Wellington, New Zealand

AUDIT NEW ZEALAND
Mana Arotake Aotearoa

Financial Statements

Statement of comprehensive revenue and expense

for the year ended 30 June 2016

	Notes	2016 Actual \$000	2016 Budget \$000	2015 Actual \$000
Operating revenue				
<i>Revenue from non-exchange transactions</i>				
Crown revenue		37,353	42,301	34,774
Court cost awards		135	50	599
Total revenue from non-exchange transactions		37,488	42,351	35,373
<i>Revenue from exchange transactions</i>				
Fees and recoveries		831	50	359
Interest		873	860	1,077
Other revenue		282	481	136
Total revenue from exchange transactions		1,986	1,391	1,572
Total operating revenue		39,474	43,742	36,945
Operating expenses				
Members and personnel	1	27,200	28,496	25,627
Legal and other professional fees	2	6,929	10,490	5,897
Computer, information, and information technology		598	566	579
Occupancy	3	1,962	1,693	1,460
Depreciation and amortisation		972	1,025	584
Other expenditure	4	1,679	1,637	1,512
Total operating expenditure		39,340	43,907	35,659
Surplus/(deficit)		134	(165)	1,286
TOTAL COMPREHENSIVE REVENUE AND EXPENSE		134	(165)	1,286

The accompanying statement of accounting policies and notes to the financial statements on pages 57-77 form part of the financial statements.

Statement of changes in equity

for the year ended 30 June 2016

	2016 Actual \$000	2016 Budget \$000	2015 Actual \$000
Balance at 1 July	17,177	16,684	15,891
Comprehensive revenue and expense			
Surplus/(deficit)	134	(165)	1,286
Total comprehensive revenue and expense	134	(165)	1,286
Transactions with owner			
Repayment of reserves to the Crown	(3,000)	0	0
Total transactions with owner	(3,000)	0	0
BALANCE AT 30 JUNE	14,311	16,519	17,177

The accompanying statement of accounting policies and notes to the financial statements on pages 57-77 form part of the financial statements.

Statement of financial position

as at 30 June 2016

	Notes	2016 Actual \$000	2016 Budget \$000	2015 Actual \$000
Equity				
General funds	5	11,311	13,519	14,588
Litigation costs reserve	5	3,000	3,000	2,589
Total equity		14,311	16,519	17,177
Current assets				
Cash and cash equivalents	6	8,285	3,796	2,805
Fees and recoveries receivable		149	270	633
Short-term investments		12,000	14,000	19,000
Prepayments		459	315	538
Total current assets		20,893	18,381	22,976
Non-current assets				
Property, plant and equipment	7	3,679	2,891	851
Intangibles	8	2,095	2,841	1,764
Total non-current assets		5,774	5,732	2,615
Total assets		26,667	24,113	25,591
Current liabilities				
Creditors and other payables	9	1,133	1,010	953
Accrued expenses		1,249	1,937	980
Lease incentive		244	152	15
Provisions	10	171	0	260
Penalties and cost awards held in Trust	11	122	50	554
Crown funding repayable	12	5,765	607	3,870
Employee entitlements	13	1,698	2,312	1,738
Total current liabilities		10,382	6,068	8,370
Non-current liabilities				
Provisions	10	132	33	33
Lease incentive		1,842	1,493	11
Total non-current liabilities		1,974	1,526	44
Total liabilities		12,356	7,594	8,414
NET ASSETS		14,311	16,519	17,177

The accompanying statement of accounting policies and notes to the financial statements on pages 57-77 form part of the financial statements.

Statement of cash flows

for the year ended 30 June 2016

	Notes	2016 Actual \$000	2016 Budget \$000	2015 Actual \$000
Cash flows from operating activities				
Crown funding received		43,099	42,908	38,644
Fees and recoveries received		3,285	625	244
Receipts and payment of penalties (net)		(300)	0	1,056
Interest received		1,037	860	1,031
Member and employee payments		(27,635)	(28,360)	(25,681)
Supplier payments		(10,843)	(12,718)	(10,024)
Repayment of Crown funding		(3,870)	(2,427)	(3,869)
Goods and services tax (net)		(199)	(119)	259
Net cash inflow from operating activities	14	4,574	769	1,660
Cash flows from investing activities				
Investments receipts/(deposits)		7,000	4,000	(500)
Property, plant and equipment sale proceeds		(5)	0	0
Property, plant and equipment purchases		(2,329)	(2,629)	(566)
Intangible asset purchases		(760)	(1,527)	(1,357)
Net cash inflow/(outflow) from investing activities		3,906	(156)	(2,423)
Cash flows from financing activities				
Reserves returned to the Crown		(3,000)	0	0
Net cash (outflow) from financing activities		(3,000)	0	0
Net increase/(decrease) in cash and cash equivalents		5,480	613	(763)
Opening cash and cash equivalents		2,805	3,183	3,568
CLOSING CASH AND CASH EQUIVALENTS	6	8,285	3,796	2,805

The GST (net) component of operating activities reflects the net GST paid and received from the Inland Revenue Department. 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 57-77 form part of the financial statements.

Statement of accounting policies

for the year ended 30 June 2016

Reporting entity

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

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

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

Measurement base and statement of compliance

We have prepared these financial statements to comply with the requirements of the Crown Entities Act 2004.

We prepared these financial statements on a historical cost basis for a going concern to comply with New Zealand Generally Accepted Accounting Practice (GAAP). The Commission authorised the financial statements for issue on 27 October 2016.

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

Functional and presentation currency

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

Significant accounting policies

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

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

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

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

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

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

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

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

The estimated useful lives of the major asset classes are:

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

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

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

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

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

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

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

Investments – Investments are term deposits issued by New Zealand registered banks with maturities of more than 90 days. Loans and receivables are initially measured at the amount invested. After initial recognition, investments are re-measured at amortised cost using the effective interest rate method.

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

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

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

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

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

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

Changes in accounting policies

The accounting policies adopted are consistent with the previous year.

Changes to applicable reporting standards and interpretations

During 2016, the XRB issued the *2015 Omnibus Amendments to PBE Standards, Disclosure Initiative (Amendments to PBE IPSAS 1)*, and *Donated Goods (Amendments to PBE IPSAS 23)*. These amendments apply to PBEs with reporting periods beginning on or after 1 January 2016, making a series of minor amendments and clarifications of existing requirements. We will apply these amendments in our next set of financial statements. There will be no effect on our accounts in applying these amendments.

Notes to the financial statements

for the year ended 30 June 2016

1. Members and personnel

	2016 Actual \$000	2015 Actual \$000
Salaries and wages (including annual leave and other entitlements)	24,298	22,671
Defined contribution plan employer contributions	545	510
Redundancy	(77)	253
Recruitment	299	276
Professional development	401	378
Other employment-related costs	1,734	1,539
TOTAL MEMBERS AND PERSONNEL EXPENDITURE	27,200	25,627

Specified employer contributions to defined contribution plans includes payments to KiwiSaver and the State Sector Retirement Savings Scheme. During 2015 the Commission made provision for four redundancy payments totalling \$253,000. Three redundancy payments were paid, with the remaining \$77,000 unpaid provision being reversed during 2016.

Employee annual remuneration bands over \$100,000

	2016 Actual #	2015 Actual #
\$100,000 – \$110,000	17	14
\$110,001 – \$120,000	13	13
\$120,001 – \$130,000	8	9
\$130,001 – \$140,000	11	8
\$140,001 – \$150,000	15	7
\$150,001 – \$160,000	4	6
\$160,001 – \$170,000	7	5
\$170,001 – \$180,000	3	4
\$180,001 – \$190,000	5	5
\$190,001 – \$200,000	1	2
\$200,001 – \$210,000	2	2
\$210,001 – \$220,000	2	1
\$220,001 – \$230,000	2	2
\$230,001 – \$240,000	1	0
\$240,001 – \$250,000	0	1
\$250,001 – \$260,000	1	0
\$260,001 – \$270,000	1	2
\$290,001 – \$300,000	0	1
\$380,001 – \$390,000	0	1
\$390,001 – \$400,000	1	0

The payments above are based on the actual payments to staff during the year. In the 2015 financial year, there were 27 pay periods due to the timing of fortnightly payment runs to staff.

2. Legal and other professional fees

	2016 Actual \$000	2015 Actual \$000
Legal consultants	4,426	2,902
Other consultants and experts	2,167	2,533
Specialist support services	246	441
Other expenses	90	21
TOTAL LEGAL AND OTHER PROFESSIONAL FEES	6,929	5,897

3. Occupancy

	2016 Actual \$000	2015 Actual \$000
Operating leases – rent	1,623	1,319
Other occupancy expenses	339	141
TOTAL OCCUPANCY	1,962	1,460

4. Other expenditure

	2016 Actual \$000	2015 Actual \$000
Telecommunications	321	317
Travel	674	556
Operating leases – photocopiers and printers	39	39
Postage, photocopying, and stationery	157	168
Publications and knowledge sharing	161	167
Loss on disposal of assets	3	0
Audit fees for financial statement audit	44	43
Other expenses	280	222
TOTAL OTHER EXPENDITURE	1,679	1,512

5. Equity

The Commission's total comprehensive revenue and expenses for the year of \$0.134 million (2015: \$1.286 million) flows to both our general funds and our litigation costs reserve. The respective increase or decreases in both reserves equal the Commission's total comprehensive revenue and expense for the year.

General funds

	2016 Actual \$000	2015 Actual \$000
Balance at 1 July	14,588	13,802
Total comprehensive revenue and expense attributable	(277)	786
Return of reserves to the Crown	(3,000)	0
BALANCE AT 30 JUNE	11,311	14,588

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

Litigation costs reserve

	2016 Actual \$000	2015 Actual \$000
Balance at 1 July	2,589	2,089
Total comprehensive revenue and expense attributable	411	500
BALANCE AT 30 JUNE	3,000	2,589

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

During the year, the Commission did not have to pay any adverse cost awards (2015: the Commission did not have to pay any adverse cost awards), resulting in an increase in the litigation costs reserve of \$0.411 million (2015: \$0.5 million increase).

6. Cash and cash equivalents

	2016 Actual \$000	2015 Actual \$000
Cash on hand and at bank	8,166	1,754
Cash held in trust	119	1,051
TOTAL CASH AND CASH EQUIVALENTS	8,285	2,805

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. Please 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 2014	1,817	862	1,686	45	4,410
Additions	447	41	28	0	516
Disposals	(4)	(21)	0	0	(25)
BALANCE AT 30 JUNE 2015	2,260	882	1,714	45	4,901

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
Balance at 1 July 2015	2,260	882	1,714	45	4,901
Additions	205	481	2,692	0	3,378
Disposals	(666)	(489)	(20)	0	(1,175)
BALANCE AT 30 JUNE 2016	1,799	874	4,386	45	7,104

Property, plant and equipment not yet commissioned at 30 June 2016 totalled \$696,000, comprising \$692,000 of leasehold improvements and \$4,000 of furniture and fittings (2015: \$54,000, comprising \$28,000 of leasehold improvements and \$26,000 of computer and office equipment).

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 2014	1,354	818	1,474	27	3,673
Depreciation expense	280	18	100	4	402
Eliminate on disposal	(4)	(21)	0	0	(25)
BALANCE AT 30 JUNE 2015	1,630	815	1,574	31	4,050

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
Balance at 1 July 2015	1,630	815	1,574	31	4,050
Depreciation expense	327	53	159	4	543
Elimination on disposal	(660)	(488)	(20)	0	(1,168)
BALANCE AT 30 JUNE 2016	1,297	380	1,713	35	3,425

Carrying amounts:

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
At 1 July 2014	463	44	212	18	737
At 30 June and 1 July 2015	630	67	140	14	851
AT 30 JUNE 2016	502	494	2,673	10	3,679

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

8. Intangibles

Cost:

	TSLRIC Models \$000	Acquired software \$000	Total \$000
Balance at 1 July 2014	282	1,970	2,252
Additions	1,262	24	1,286
BALANCE AT 30 JUNE 2015	1,544	1,994	3,538

	TSLRIC Models \$000	Acquired software \$000	Total \$000
Balance at 1 July 2015	1,544	1,994	3,538
Additions	361	399	760
BALANCE AT 30 JUNE 2016	1,905	2,393	4,298

Intangible assets not yet commissioned at 30 June 2016 totalled \$362,000 for acquired software (2015: \$1,544,000 for TSLRIC Models).

Accumulated amortisation and impairment losses:

	TSLRIC Models \$000	Acquired software \$000	Total \$000
Balance at 1 July 2014	0	1,592	1,592
Amortisation expense	0	182	182
Disposals	0	0	0
BALANCE AT 30 JUNE 2015	0	1,774	1,774

	TSLRIC Models \$000	Acquired software \$000	Total \$000
Balance at 1 July 2015	0	1,774	1,774
Amortisation expense	277	152	429
Disposals	0	0	0
BALANCE AT 30 JUNE 2016	277	1,926	2,203

Carrying amounts:

	TSLRIC Models \$000	Acquired software \$000	Total \$000
At 1 July 2014	282	378	660
At 30 June and 1 July 2015	1,544	220	1,764
AT 30 JUNE 2016	1,628	467	2,095

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

9. Creditors and other payables

	2016 Actual \$000	2015 Actual \$000
Payables under exchange transactions		
Creditors	579	143
Retentions	16	0
Total payables under exchange transactions	595	143
Payables under non-exchange transactions		
PAYE and other taxes withheld for payment to the Crown	312	570
Goods and Services Tax payable to the Crown	226	240
Total payables under non-exchange transactions	538	810
TOTAL CREDITORS AND OTHER PAYABLES	1,133	953

10. Provisions

	2016 Actual \$000	2015 Actual \$000
Current portion		
Restructure	1	260
Onerous lease	170	0
Total current portion	171	260
Non-current portion		
Onerous lease	99	0
Reinstatement	33	33
Total non-current portion	132	33
TOTAL PROVISIONS	303	293

Movements for each class of provision are as follows:

	Restructure \$000	Onerous lease \$000	Lease make-good \$000	Total \$000
Balance at 1 July 2014	0	0	236	236
Additional provisions made	260	0	0	260
Amounts used	0	0	0	0
Unused amounts reversed	0	0	(203)	(203)
BALANCE AT 30 JUNE 2015	260	0	33	293

	Restructure \$000	Onerous lease \$000	Lease make-good \$000	Total \$000
Balance at 1 July 2015	260	0	33	293
Additional provisions made	0	269	0	269
Amounts used	(169)	0	0	(169)
Unused amounts reversed	(90)	0	0	(90)
BALANCE AT 30 JUNE 2016	1	269	33	303

Restructure provision

In May 2015, the Commission decided to close the Christchurch office by June 2016. This provision recognises redundancy costs and occupancy costs that arose as a result of that decision.

Onerous lease provision

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

Lease make-good provision

Some of the Commission's office leases carry obligations to reinstate the premises at the end of a lease. This provision recognises an estimate of costs in relation to those leases.

11. Penalties and cost awards held in trust

	2016 Actual \$000	2015 Actual \$000
Balance at the beginning of the year	554	145
Court cost awards compensation received (or recognised as receivable), and interest earned	719	1,686
Penalties received and paid to the Crown (net)	0	0
Infringement fees received (or receivable) and paid to the Crown (net)	(1)	14
Court cost awards, compensation, and interest paid out	(1,150)	(1,291)
BALANCE AT THE END OF THE YEAR	122	554

Penalties and cost awards held in trust are 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 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 1986 infringements unpaid after a certain length of time are transferred to the Ministry of Justice for collection. Infringements issued under the Telecommunications Act 2001 are collected by the Commission.

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

Components of penalties and cost awards held in trust:

	2016 Actual \$000	2015 Actual \$000
Infringement fees due to the Crown (including receivable)	13	14
Court cost awards and compensation due to Crown or other parties	109	540
BALANCE AT THE END OF THE YEAR	122	554

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

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

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

12. Crown funding repayable

	2016 Actual \$000	2015 Actual \$000
Airports	0	146
Broadband performance testing	0	1,140
Dairy	456	52
Electricity	314	899
Gas	91	209
Telecommunications	578	0
Litigation fund	4,326	1,424
TOTAL CROWN FUNDING REPAYABLE	5,765	3,870

13. Employee entitlements

	2016 Actual \$000	2015 Actual \$000
Accrued salaries and wages	81	0
Annual leave	1,270	1,322
Accrued performance and at-risk incentives	347	416
TOTAL EMPLOYEE ENTITLEMENTS	1,698	1,738

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

	2016 Actual \$000	2015 Actual \$000
Operating surplus for the year	134	1,286
Plus non-cash items:		
Depreciation and amortisation	972	584
Loss/(gain) on sale of property, plant and equipment	3	0
Lease incentives recognised	(142)	(16)
Restructuring provision	(259)	260
Onerous lease provision	269	0
Change in estimate of reinstatement costs for premises	0	(203)
Employee entitlements	77	(595)
Total non-cash items	920	30
Plus change in working capital items:		
Fees and recoveries receivable	506	(194)
Prepayments	(38)	(104)
Creditors	180	345
Accrued expenses	(160)	(113)
Lease incentives received	1,591	0
Crown revenue receivable	(22)	0
Crown funding repayable	1,895	1
Penalties and cost awards held in trust	(432)	409
Total change in working capital items	3,520	344
NET CASH INFLOWS FROM OPERATING ACTIVITIES	4,574	1,660

15. Critical accounting judgements and estimates

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

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

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

Contingencies

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

The Commission has assessed the likelihood of the appeals being successful and the likelihood 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 2016 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 2016 (please see note 16). We continue to monitor all our current litigation cases, and assess whether they give rise to contingent liabilities or assets.

16. Contingent liabilities and assets

Contingent liabilities as at 30 June 2016:

There are no contingent liabilities.

Contingent liabilities as at 30 June 2015:

There were no contingent liabilities.

Contingent assets as at 30 June 2016:

Godfrey Hirst Appeal

In November 2015, the Commission issued its final determination approving Cavalier Wool Holdings' application to acquire New Zealand Wool Services International's wool scouring business and assets.

Godfrey Hirst appealed against the determination seeking to have the Commission's determination overturned.

In June 2016, the High Court made a decision which rejected Godfrey Hirst's appeal. Godfrey Hirst has appealed the High Court decision to the Court of Appeal. The Court of Appeal Judgment is pending.

Real Estate Fees and Livestock Scanning Fees

The Commission has commenced separate proceedings against a number of parties alleging price fixing arrangements in various real estate and livestock scanning markets. We have reached agreements in principle to settle with several parties in these proceedings, which if approved by the Courts would result in the awarding of penalties to the Crown and also some small awards of costs in the Commission's favour. As the agreements and amounts are confidential at this stage and other parties continue to defend their positions, we cannot provide further detail.

Contingent assets as at 30 June 2015:

Motor Trade Finance Limited and Others

The Commission disclosed a contingent asset for legal costs and disbursements relating to the Commission's civil claim against Motor Trade Finance Limited (MTF) and Sportzone Motorcycles Limited (in liquidation) (Sportzone). The Commission alleged MTF and Sportzone breached s 41, s 42 and s 44 CCCFA by charging unreasonable credit fees.

In September 2013, the High Court released its decision affirming the Commission's claim that many of the credit fees charged by MTF and Sportzone were unreasonable. MTF and Sportzone appealed the decision, with the Commission lodging a cross-appeal in respect of its Fair Trading Act cause of action. The Court of Appeal judgment was released on March 2015 in Commission's favour, and the Commission was awarded costs.

MTF and Sportzone then took their case to the Supreme Court in November 2015. In May 2016 the Supreme Court dismissed MTF and Sportzone's second and final appeal, awarding the Commission \$25,000 plus disbursements in respect of its costs in the Supreme Court. In May 2016, the Commission received an additional agreed payment of \$587,343.90 (\$574,345 plus interest of \$12,998.90) from MTF in respect of the Commission's legal costs and disbursements in the High Court and Court of Appeal.

17. Financial instruments

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

Monetary assets:

	2016 Actual \$000	2015 Actual \$000
Loans and receivables		
Cash and cash equivalents	8,285	2,805
Fees and recoveries receivable	149	633
Short-term investments	12,000	19,000
TOTAL MONETARY ASSETS	20,434	22,438

Monetary liabilities:

	2016 Actual \$000	2015 Actual \$000
Financial liabilities measured at amortised cost		
Creditors	1,133	953
Penalties and cost awards held in trust	122	554
Crown revenue repayable	5,765	3,870
TOTAL MONETARY LIABILITIES	7,020	5,377

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

Liquidity risk

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

Credit risk

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

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

Interest rate risk

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

The financial instruments' carrying amount closely approximates their fair values as at 30 June 2016 and 30 June 2015. The average interest rate on interest-bearing term deposits over the year was 3.80 per cent (2015: 4.35 per cent). A 1 per cent change in interest rates, with all other factors unchanged, would change interest earnings by \$161,000 (2015: \$176,000).

Currency risk

Currency risk results from fluctuations in the value of future cash outflows because of changes in foreign exchange rates. The Commission engages overseas experts and purchases specialist goods and services from foreign suppliers, requiring payment in a range of foreign currencies. The transactions are not hedged and are translated into New Zealand dollars at the exchange rate (spot) obtained when the invoices are paid. A 10 per cent change in exchange rates, with all other factors unchanged, would change expenditure by \$18,200 (2015: \$35,500).

18. Operating (non-cancellable) leases

Operating (non-cancellable) lease payments due:

	2016 Actual \$000	2015 Actual \$000
Within one year	1,863	1,590
Within one to two years	1,783	1,477
Within two to five years	4,545	3,999
After five years	8,355	9,138
TOTAL OPERATING (NON-CANCELLABLE) LEASES DUE	16,546	16,204

The future operating (non-cancellable) lease payments consists of the contractual amounts due for leased office equipment and premises. The Commission leases offices in Auckland and Wellington, with the Wellington lease expiring in 2027, our previous Auckland office expiring in 2018, and new Auckland office sub-lease expiring in 2019. The Christchurch office closed during the 2016 financial year.

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

19. Capital expenditure commitments

	2016 Actual \$000	2015 Actual \$000
Property, plant and equipment	911	0
Intangible assets	66	258
TOTAL CAPITAL EXPENDITURE COMMITMENTS	977	258

20. 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 Telecommunications.

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

There were no other related party transactions during the year (2015: \$Nil).

Key management personnel

	2016 Actual \$000	2015 Actual \$000
Members' remuneration	2,353	2,182
Senior leadership team remuneration	1,223	1,188
TOTAL KEY MANAGEMENT PERSONNEL REMUNERATION	3,576	3,370

	2016 Actual #	2015 Actual #
Members' full-time equivalents	5.69	5.22
Senior Leadership Team full-time equivalents	4	4
TOTAL KEY MANAGEMENT PERSONNEL FULL-TIME EQUIVALENTS	9.69	9.22

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

21. Members' remuneration

	2016 Actual \$000	2015 Actual \$000
M Berry (Chairman)	553	541
S Begg (Deputy Chair)	427	394
S Gale (Telecommunications Commissioner)	415	407
P Duignan (Commissioner until 2 December 2015)	129	270
E Welson (Commissioner)	312	342
A Rawlings (Commissioner)	252	228
G Crombie (Associate Commissioner from 20 July 2015)	79	0
J Walker (Commissioner from 1 December 2015)	186	0
TOTAL MEMBERS' REMUNERATION	2,353	2,182

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

Members' daily rates:

	2016	2015
Deputy Chair	1,835	1,800
Commissioners and Associates	1,550	1,520
Cease and Desist Commissioners	1,550	1,520

Members' additional remuneration

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

Other payments in respect of Members

The Commission paid \$12,000 to an Audit, Finance and Risk Management Committee member appointed by the Board who is not a Board member during the year (2015: \$12,000 to an Audit, Finance and Risk Management Committee member appointed by the Board who is not a Board member).

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

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

No Members received compensation or other benefits in relation to cessation (2015: \$Nil).

22. Capital management

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

The Commission is subject to the financial management and accountability provisions of the Crown Entities Act 2004, which impose restrictions on borrowings, acquisition of securities, issuing guarantees and indemnities, and the use of derivatives.

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

23. Significant events after balance date

The Commission has commenced proceedings against a number of real estate parties for their roles in price fixing arrangements. Since 1 July 2016, two parties have settled. The penalty amounts agreed with the parties were \$2.2 million, and \$900,000 (both on 1 July 2016). These funds are paid to the Commission and transferred in full to the Crown (via the Ministry of Business, Innovation and Employment) within 7 days of receipt. Further penalty hearings are scheduled over the coming financial year.

24. Explanation of significant variances against budget

Explanations for significant variations from the budgeted figures in the Statement of Performance Expectations 2015/16 are:

Statement of comprehensive revenue and expense

Crown revenue

Crown revenue was \$4.948 million less than budget. This is primarily due to significantly less Litigation Fund revenue recognised because of settlements and favourable court judgments in the Commission's cases, reducing litigation expenditure on external counsel and experts.

Members and personnel

Members and personnel expenditure was \$1.296 million under budget primarily due to staff vacancies across the Commission, and less use of temporary staff and contractors than budgeted.

Legal and other professional fees

Legal and other professional fees were \$3.561 million under budget primarily due to reduced expenditure on litigation related costs arising from settlements and favourable judgments in several major litigation cases, and less expenditure than budgeted on external consultants within our other output classes.

Statement of financial position

Total equity

Total equity was \$2.208 million less than budget due to the Commission repaying \$3 million of reserves to the Crown, offset by a \$0.493 million greater than budgeted opening equity balance, and a greater than budgeted result in our competition and consumer output class.

Cash and cash equivalents

Cash and cash equivalents were \$4.489 million greater than budgeted due to a range of factors including a decrease in our short term investments, lower cash expenditure relating to our operations, repayment of reserves to the Crown, and additional cash receipts from third parties for fees and other recoveries including lease incentives received.

Short-term investments

Short term investments were \$2.0 million less than budget as we managed our cash funds differently to the high level assumptions made when setting our 2016 budget.

Crown funding to be repaid

Crown funding to be repaid was \$5.136 million greater than budgeted as funding received in advance from a number of appropriations to fund our classes of outputs, especially the Litigation Fund appropriation, was greater than our expenditure against those output classes.

Statement of cash flows

Fees and recoveries received

Fees and recoveries received was \$2.660 million greater than budget primarily because we received \$1.830 million in cash incentives for leases on our Wellington and new Auckland offices. We assumed receipt of the former before 1 July and the new Auckland office was not included in the budget.

Supplier payments

Payments to suppliers were \$1.875 million less than budgeted, due to lower than budgeted expenditure as reflected in the statement of comprehensive revenue and expense.

Repayment of Crown funding

Repayment of Crown funding was \$1.443 million greater than budget as prior year expenditure was less than forecast when establishing the 2016 budget.

Investment receipts

Investment receipts were \$3 million greater than budget as we placed fewer short term investments than budgeted, and started with a higher than budgeted short term investment balance.

Financial Statements Glossary

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

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

Intangible assets	Intangible assets are assets which do not have a physical substance, and are not cash.
Liability	A liability is something we owe, expect to pay in the future, or may have to pay in the future.
Monetary assets	Monetary assets are assets which are cash, or will become cash in a short time-frame; eg, bank account balances, term deposits, accounts receivable.
Monetary liabilities	Monetary liabilities are debts owed to another party, such as accounts payable, loans, or unpaid salaries.
Non-current asset (or liability)	A non-current asset is an asset which we cannot ordinarily turn into cash within twelve months. A non-current liability is a liability which we would not ordinarily have to repay within twelve months.
Output class	An output class is a grouping of similar outputs or activities with similar objectives. The Commission's output classes are primarily funded by appropriations from the Crown via MBIE.
Provision	An estimate of an amount that an entity may (or will) have to pay as a result of an obligation the entity has to another party.
Public benefit entity	An entity which aims to provide goods or services to the general public to meet a specific need, rather than to make a profit for its owners.
Related party	Another person or entity which is related to us because of, for example, a common owner or person in a position of authority (eg, director, senior management).
Statement of cash flows	A statement which shows how much cash we have received from various sources (investments, operating activities, cash injections received from the Crown) and cash payments we have made (expenses, salaries, repayment of money to the Crown).
Statement of comprehensive revenue and expense	A statement which shows our surplus or deficit from our operating activities, plus or less any movements in non-owner equity items (see comprehensive revenue and expense above).
Statement of financial position	A statement which shows what assets we own or control, what liabilities we have, and the remainder (equity) at the balance date.

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