WELLINGTON
Level 9, 44 The Terrace
PO Box 2351, Wellington 6140
New Zealand
Tel: +64 4 924 3600

AUCKLAND
Level 12, 55 Shortland Street
PO Box 105-222, Auckland 1143
New Zealand
Tel: +64 4 924 3600

www.comcom.govt.nz

27 November 2020

By email only:

Dear

Official Information Act #20.060 - Commerce Commission Investigations

1.   We refer to your request received on 16 September 2020 for:

1.1   the following information about every Commerce Act 1986 (CA) investigation[1] conducted by the Commerce Commission (Commission) over the last five financial years (FY16 - FY20):

1.1.1   the year the investigation began;

1.1.2   the industry/sector investigated;

1.1.3   the CA provisions involved in the investigation;

1.1.4   whether the Commission issued s98 notice(s) during the investigation; and

1.1.5   the investigation outcome.

1.2   the following information about every Fair Trading Act 1986, CA,[2] and Credit Contracts and Consumer Finance Act 2003 investigation conducted by the Commission from 2016 to 2020 (YTD):

---

[1]   You have defined a Commerce Act Investigation as any distinct matter where the Commission has requested information from a third party or third parties to assess the Commerce Act compliance of particular conduct. The definition is designed to cover, for instance, any "informal inquiries" the Commission's merger team has made into a published deal, regardless of whether the matter was formally lodged as a s47 investigation on the Commission's website.

[2]   Excluding clearance and authorisation applications.

1.2.1 the number of investigations completed (as measured in the Commission's "performance update");

1.2.2 the number of "no further action" letters sent to investigated parties;

1.2.3 the number of compliance advice and/or warning letters sent to investigated parties; and

1.2.4 the number of enforcement proceedings filed against investigated parties.

1.3 the following information about certain CA investigations conducted by the Commission from 2016 to 2020 (YTD):

1.3.1 the number of leniency applications received under the Cartel Leniency Policy;

1.3.2 the number of organisations or people granted leniency under the Cartel Leniency Policy;

1.3.3 the number of s98A search warrants applied for; and

1.3.4 the number of s98A search warrants issued and executed.

2. On 22 September 2020, in response to our email of the same date, you clarified the time period for your request outlined in paragraphs [1.2] and [1.3] of is by financial year.

3. On 28 September 2020, in response to our email of the same date, you clarified that your definition of investigation (at footnote 1) includes open and closed matters and applies to all paragraphs of your request.

4. On 15 October 2020, we extended the date to make a decision to 27 November 2020.

5. We have treated this as a request for information under the Official Information Act 1982 (OIA).

Our response

6. We have decided to grant your request.

Paragraph [1.1]

7. We are preparing the information for release and it will be provided to you without undue delay.

3957171v3

Paragraph [1.2]

8.   We are preparing the information for release and it will be provided to you without undue delay.

Paragraph [1.3]

9.   The information responsive to the request at paragraph [1.3] of this letter is contained in the table below:

Year[3]	Number of applications received under Cartel Leniency Policy	Number of organisations or people granted leniency[4] under Cartel Leniency Policy	Number of s98A search warrants applied for	Number of s98A search warrants issued and executed
2016	4	2	0	0
2017	5	3	0	0
2018	4	4	0	0
2019	7	6	0	0
2020	7	7	0	0

10. Please note the Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.

11. Please do not hesitate to contact us at oia@comcom.govt.nz if you have any questions about this request.

Yours sincerely

Mary Sheppard
OIA Coordinator

---

[3]   The information relates to the calendar year, not the financial year.
[4]   This only includes parties that were granted immunity under our Leniency Programme. It does not include formal co-operation applications.