

6 May 2022

Hon Dr David Clark
Minister of Commerce and Consumer Affairs
Parliament Building
WELLINGTON

Dear Minister Clark

Re: Annual Letter of Expectations 2022/23

Thank you for your recent letter setting out your expectations for:

- the role of the Commission in contributing to the Government's priorities; and
- the Commission's strategic and operational accountability and performance.

This letter responds to your request for advice on how we propose to address these expectations. Consistent with our approach in recent years, we have focused on drawing your attention to key matters rather than responding to each individual listed expectation. Our Statement of Performance Expectations for 2022/23 (SPE) will include performance targets that address the detailed elements you have outlined in your letter.

Commission's role in contributing to Government's priorities

The Commission understands the overarching objectives of the Government and our roles in relation to its economic plan. The objective to accelerate New Zealand's economic recovery is particularly relevant to our work, and competition plays an important role in supporting healthy markets. All our work is focussed on making New Zealanders better off, but some aspects of our work will have particular significance to the aspects of the economic plan that are highlighted in your letter.

Alongside facilitating efficient investment in infrastructure to support the transition to a low carbon economy, we will continue to help ensure New Zealand's markets are competitive, consumers are well informed and protected, and sectors with little or no competition are appropriately regulated. Among other things, our work helps to ensure businesses have incentives to innovate and make efficient use of resources, including in sectors that will be critical to enabling decarbonisation of the economy (such as energy and telecommunications). Where appropriate, we take a flexible approach to our regulation to facilitate these outcomes.

In the financial year ahead, we will be focussed on our engagement with consumers and businesses across the breadth of the work that we do. We will ensure that our information

and education materials support the implementation of law changes such as the recent changes to section 36 of the Commerce Act 1986. Being mindful about who we engage with, when and how, will also help ensure that we are using the right channels to reach the right people to educate them about their rights and obligations. It will also enable us to collect information that will help us to identify harm – and potential harm – faster, and to prioritise and be more targeted in our actions.

Expectations relating to ministerial portfolios

In relation to the ministerial portfolios outlined in your letter, our intentions are consistent with your expectations. We are currently in the process of identifying our priorities for education and engagement during the 2022/2023 financial year, and we have noted the examples you have suggested in relation to specific sectors and issues. Consistent with your expectations, we will identify areas where evidence suggests there may be significant potential benefits from such engagement, and we will keep you informed of our priorities through our regular meetings with you.

We are progressing our market studies work relating to competition for the supply or acquisition of key building supplies used to build the major components of residential buildings. We continue to gather information in relation to this and we are on track to deliver our final report by 6 December 2022. We are also supporting work being undertaken by the Ministry of Business, Innovation and Employment (MBIE) in relation to various recommendations from our previous market study into the grocery sector.

We expect to commence consultation shortly on a process and approach for the review of Input Methodologies under Part 4 of the Commerce Act. These rules and processes underpin regulation of electricity lines, gas pipeline services, and certain airport services and are foundational to how these sectors are regulated. The rules developed through this process will have significant, long-term impacts on the functioning of the markets involved.

We continue to focus on ensuring that regulation supports broadband and mobile markets to be competitive through effective monitoring and the regulation of wholesale services. Our work in this area will provide consumers with independent information that helps to empower them to make informed purchasing decisions and engage more confidently in the market. It will also enable us to promptly identify and address emerging issues.

We continue to prioritise resources to respond to uncharacteristically high demand for merger clearances and authorisations.

Good governance expectations

The Commission is currently undertaking work to refresh our Strategy and Vision, together with a new Statement of Intent covering the period 2023–2027. In updating our strategic framework, we will be focused on the impacts of our work as well as our roles and responsibilities.

You have outlined your expectation that the Commission support the Government's good-faith and collaborative approach to Māori Crown relationships in carrying out our functions and as a good employer. We are developing a Māori strategy for the Commission and expect the strategy to be completed by the end of 2022. While we continue to develop the strategy, we have several workstreams underway to lift our capability in te ao Māori. These workstreams will contribute to the overall strategy, which will continue to guide our approach into the future.

You have sought specific information about our plans to undertake the next governance self-review. We expect that this will be completed by the end of 2022, and we will undertake ongoing work to respond to any findings. We will keep you updated as this work progresses.

As you are aware, the Commission's Board will change significantly this year. Recruitment processes are underway in the search for a new Chair, Deputy Chair and Board members. This transition is significant for the Commission, its governance, leadership and decision making. The Commission and its work is increasingly complex and expanding. In this context, we are particularly focused on effective succession and onboarding processes to assist our Board to provide certainty and stability to our organisation.

Our Board and leadership team are also focused on supporting our people and our organisation to return to a stable working environment following the uncertainty of the Covid-19 pandemic.

Evolution of the Commission

We remain focussed on delivery of our core functions, powers and duties as well as operationalising recent changes to the laws that we administer and enforce. These include changes to the Commerce Act 1986 and Fair Trading Act 1986, a smooth implementation of further possible changes to the Credit Contracts and Consumer Finance Act 2003, completing implementation of the Fuel Industry Act, and the introduction of a new regulatory regime for retail payments once the Retail Payment System Bill is enacted. We are also embedding structural changes to divide our Economic Regulation branch into two (Market Regulation and Infrastructure Regulation) branches.

We are committed to engaging with other government agencies and other regulators in an open and collaborative manner to share our expertise. In the case of our monitoring department, we will work with and welcome monitoring scrutiny and support from MBIE. In a similar manner, we continue to foster strong relationships with our international regulatory counterparts to ensure we keep abreast of global and jurisdiction issues as they arise, particularly in competition, consumer and infrastructure regulation, and to support the ongoing development of our regulatory system and practice. A number of these international counterparts are undertaking significant programmes of work, which we will continue to monitor with interest.

The Commission continues to respond to a constantly changing operating context and to evolve to meet expectations. We are at our core an independent crown entity with a Commission structure and we look forward to continuing work with you and with MBIE as our monitoring agency to meet expectations.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Anna Rawlings', with a stylized, cursive script.

Anna Rawlings
Chair