COMMERCE COMMISSION NEW ZEALAND
Te Komihana Tauhokohoko

Annual Report
Pūrongo ā-tau
2021/22

Presented to the House of Representatives pursuant to section 150(3) of the Crown Entities Act 2004.

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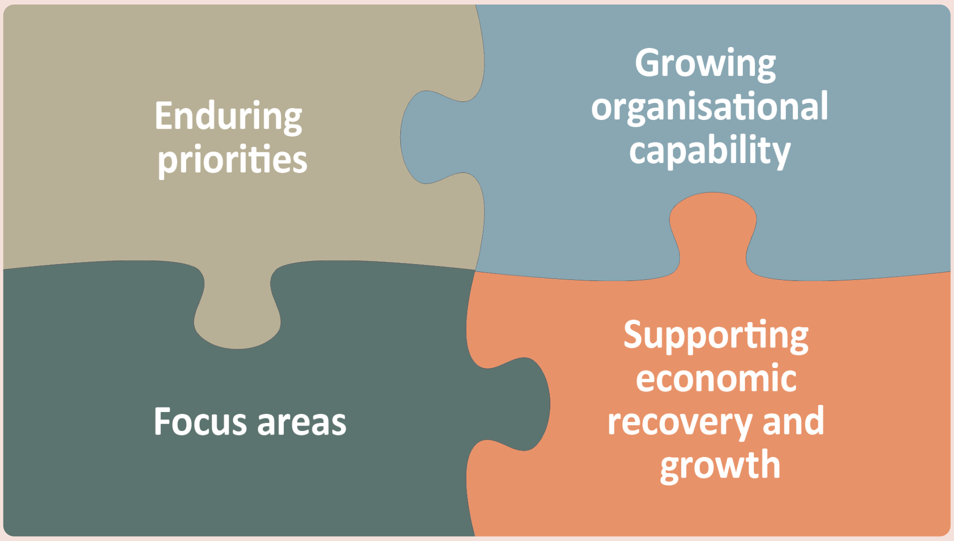
Enduring priorities
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2021/22 priorities highlights
Ngā kaupapa tōmua, whakahirahira o 2021/22

Every year we identify priority areas to help us to focus our activity and resources on work that is likely to have the greatest impact for New Zealanders. We describe below some highlights for 2021/22 in each of our priority areas.

Enduring priorities

Areas the Commission always prioritises due to their potentially significant impact on consumers, businesses and markets in New Zealand, or because work in these areas is a core part of our statutory role.

Our achievements against enduring priorities

- Implemented amendments to consumer credit laws that help ensure that consumer finance is safe, transparent and fair, and contributed to continued Government review of the law changes and expanded our connections with other sector agencies.
- Implemented a new requirement for labelling and testing sunscreens and country of origin labelling for food, including issuing guidance to businesses.
- Supported substantially increased merger activity by assessing 21 merger clearance applications compared to 8 assessed in 2020/21.
- Implemented amendments to the Commerce Act prohibiting covenants that restrict land being used for grocery retailing and continued to investigate land covenants that may reduce retail competition.
- Obtained penalties against two freight forwarding companies and four individuals involved in agreements not to compete for customers.
- Reset the gas default price-quality path, balancing price rises for gas users with the need to continue to incentivise appropriate investment in essential gas infrastructure.
- Granted three authorisations and our first two provisional authorisations allowing conduct expected to deliver public benefits that exceed any harm to competition.

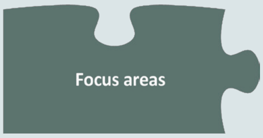
Supporting economic recovery and growth

The Commission continued to contribute to Aotearoa New Zealand's public sector efforts to address the impacts of COVID-19.

Our achievements against supporting economic recovery and growth

- Provided expert assistance and practical guidance about proposed legislative amendments and regulatory changes related to our areas of expertise.
- Engaged in cross agency workshops, industry associations and professional bodies to help navigate the challenges of the COVID-19 pandemic, including advising on competition and fair trading issues associated with the introduction of Rapid Antigen Test Kits for supply to New Zealanders.
- Continued to support businesses to grow and thrive by providing guidance so they understand and comply with the laws we enforce, have a voice in our regulatory decision-making processes, and benefit from our work, in their role as consumers.

Focus areas



We focussed on areas within our remit that are important to everyday life and the economy.

Our achievement against focus areas

- Published the final report in our 16 month study of competition in the grocery sector. We identified that competition is not working well and made recommendations to improve competition and help improve the price, quality and range of groceries. At the same time, we commenced our 12 month study into competition in the supply and acquisition of key residential building supplies.
- Completed the implementation of the foundation components of the fibre networks' regulatory regime. These are designed to deliver certainty, stability and predictability to support investment in essential infrastructure.
- Supported responsible lending by certifying the fitness and propriety of directors and senior managers of lenders who provide consumer credit, and some mobile traders.
- Provided education to lenders about the new consumer credit laws to assist them to assess the suitability and affordability of loans, including online lender seminars attended by 489 viewers.
- Focused our fair trading work on issues affecting consumers' everyday lives, including prosecutions alleging misleading pricing and investigations into misleading online sales practices.
- Established a fuel regulation team to administer and enforce the requirements of the Fuel Industry Act 2020 designed to promote competition in the wholesale and retail supply of engine fuel, including by providing better information about prices to consumers.
- Progressed our telecommunications retail service quality programme to help improve consumer information and experiences accessing everyday telecommunications services.
- Invested further in promoting compliance with cartel laws (which now provide for criminal prosecution) and with changes to the Commerce Act which prohibit the misuse of market power with anti-competitive effect.
- Developed Competition Assessment Guidelines to encourage consideration of competition effects in Government policy design.

Growing Organisational Capability

We continued our work to grow our organisational capability.

Our achievements against growing organisational capability

- Developed the Rautaki Māori (Māori strategy) to build capability in, and knowledge of, te ao Māori and better support the Māori Crown relationship and Māori interests.
- Expanded relationships with regulated entities, businesses subject to the laws that we enforce, consumer advocates, and financial mentors.
- Continued to gain and share knowledge of best practice by strengthening our networks and working relationships with our domestic and international counterparts.


COMMERCE
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NEW ZEALAND
Te Komihana Tauhokohoko

Overview
Tirohanga whānui

Overview
Tirohanga whānui

The Commerce Commission | Te Komihana Tauhokohoko is the regulatory agency responsible for administering and enforcing Aotearoa New Zealand's laws relating to competition, fair trading and consumer credit contracts. It has regulatory responsibilities in the electricity lines, gas pipelines, telecommunications, fibre, dairy and airport sectors.

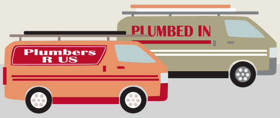
During 2021/22, the Commission acquired new regulatory responsibilities in relation to fuel and the retail payment system, and some existing functions were expanded. There is a Bill currently before Parliament proposing additional regulatory functions for the Commission relating to the groceries sector. The regulation of water infrastructure is currently subject to regulatory policy design by government, and when implemented, the Commission is expected to acquire functions as an economic regulator.

While we are a multi-functional regulator with reach into different sectors and areas, competition in markets remains at the heart of all that we do. It is core to our vision and purpose and the Acts under which we operate.

Competition is a key driver for greater value, innovation and productivity and therefore better outcomes for New Zealanders. Competition contributes to more affordably priced goods and services at the quality that consumers demand. It incentivises businesses to innovate and operate efficiently and helps to deliver increased productivity in our economy.

Through our economic regulation work, we seek to achieve these same outcomes in markets where there is little or no competition. We support competition to deliver these outcomes in other markets. Our work helps to ensure that consumers benefit from and promote competition as informed, empowered and confident market participants.

This Annual Report describes our performance during 2021/22 as we worked to influence market outcomes to better serve the long-term interests of New Zealand consumers. It shows our progress against our strategic objectives. It details our performance against our accountability frameworks, which are described in our Statement of Intent 2020–2024 and the performance measures and budgets in our Statement of Performance Expectations 2021/22.



Commerce Act 1986 (Parts 2, 3 and 5)

Prohibits anti-competitive behaviour and acquisitions that substantially lessen competition. It also provides for a clearance and authorisation regime for mergers and restrictive trade practices. Enables the Commission to carry out competition (or market) studies.

Commerce Act 1986 (Part 4)

Part 4 provides for information disclosure and the regulation of price and quality of goods and services in markets where there is little or no competition, and little or no likelihood of a substantial increase in competition. Sectors that are currently subject to the provisions of Part 4 are electricity distribution and transmission, gas pipelines, and selected airports services.

Credit Contracts and Consumer Finance Act 2003

Protects the interests of consumers in relation to consumer credit contracts, consumer leases and buy-back transactions of land. It includes provisions relating to disclosure and unforeseen hardship, and sets out rules about interest, payments, credit fees, responsible lending and lender certification.

Retail Payment System Act 2022

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

Fuel Industry Act 2020

Promotes competition in engine fuel markets for the long-term benefit of fuel users. It establishes a wholesale pricing regime, rules governing wholesale contracts, an information disclosure regime, and requirements for the display of price information at retail fuel sites.

Fair Trading Act 1986

Prohibits false and misleading behaviour by traders and a range of other unfair business practices. It also requires that consumers are given specified information about certain products and promotes product safety.

Telecommunications Act 2001

Regulates the supply of certain wholesale telecommunications services and the quality of retail services.

Dairy Industry Restructuring Act 2001

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.


BANK
HELPING KIWIS FOR YEARS
OPEN
Cafe
Cafe
Cafe
MARKET
PLUMBED IN
TAXI

Welcome from the Chair and Chief Executive

Te kupu maioha a te Heamana me te Kaiwhakahaere Mātāmua

Welcome from the Chair and Chief Executive
Te kupu maioha a te Heamana me te Kaiwhakahaere Mātāmua

During 2021/22, consumers and businesses throughout Aotearoa New Zealand continued to navigate the disruption and challenges presented by the COVID-19 pandemic.

Our people continued to manage its impact as they worked to protect and promote the interests of consumers

Their commitment can be seen in the range of outcomes described in this Annual Report. These include processing double the normal number of merger applications, undertaking overlapping market studies into groceries and building supplies, implementing the first revenue cap on Chorus's fibre business and certifying lenders under consumer credit legislation.

During 2021/22, our regulatory functions continued to expand into new areas, and we implemented significant change within our organisation to help to equip us for the future. As we grow into a larger multi-functional regulator, we have remained focused on the things that are most important to the mahi we do. We are embracing new market regulation work in different sectors of the economy, including fuel, retail payments and groceries, and this necessitates new approaches to our work. At the same time, we continue to draw on the experiences of our past to help to maintain clarity about who we are as an organisation and about what matters most to our people and to New Zealanders.

This year, we implemented initiatives to help us to give proper effect to Treaty of Waitangi obligations and to help us to ensure that Māori needs and priorities in commerce and trade are properly heard, understood and addressed through our work. This included increasing awareness and training within the Commission as well as increased engagement with Māori in relation to work such as our market studies.

As we embrace change and growth in our organisation, we have also looked back at our hītori (history). The Commerce Act 1986 and the Fair Trading Act 1986 have as their respective purposes promoting competition in markets for the long-term benefit of consumers and contributing to a trading environment in which the interests of consumers are protected, businesses compete effectively and consumers and businesses participate confidently.

These purposes continue to inform the strategic approach we take to our work under these Acts, implementing our new market regulation functions as well as our work in telecommunications, consumer credit, dairy and infrastructure regulation.

Competition is as important to the New Zealand economy now as it was in the past, as consumers and businesses face fresh challenges such as high inflation, rising interest rates, skill shortages and supply chain challenges. It is also important as we see the impact of climate change and as the sectors we regulate need to rapidly decarbonise.

We acknowledge our people who, like others around the motu, managed through illness and the challenge of caring for others with COVID-19 during 2021/22, particularly those in Tāmaki Makaurau who worked through repeated and extended Alert Level 3 and 4 restrictions. We are proud that, despite the challenges of the pandemic, we continued to deliver the work of the Commission with minimal disruption. Focusing on staff needs and support has seen the Commission's engagement levels continue to climb and the Commission continue to deliver high-quality work.

Having almost concluded the programme of organisational transformation we began in 2020, the Commission is well placed through its eight operational branches to meet changing expectations of our work and our impact and to reshape our strategic direction through a new Statement of Intent in 2022/23. We are well equipped to continue to contribute to New Zealand's economic recovery.

As we face into the future, in December 2022, the Commission welcomed Dr John Small as its new Chair. We thank Anna Rawlings for her leadership and commitment as Commission Chair since June 2019 as we significantly increased our span of responsibility and almost doubled in size during a period of challenge to the New Zealand economy, including the COVID-19 pandemic.

We look forward to continuing the Commission's trajectory of tangible impact, relevance and service for New Zealanders.

[redacted]

Dr John Small

Chair

[redacted]

Adrienne Meikle

Chief Executive

Strategic framework
Anga rautaki

Our 2017–2022 strategic framework

Tā mātou anga rautaki 2017–2022

Our vision is that New Zealanders are better off. We believe New Zealanders are better off when markets work well and consumers and businesses are confident market participants.

Our strategic framework brings together our vision, strategic objectives, strategies and values.

These make up our current vision and strategy for 2017–2022.

The two strategic objectives that underpin our vision reinforce each other. We believe the more confidence consumers and businesses have participating in markets, the better markets are likely to function, and well-functioning markets help consumers and businesses to confidently participate in markets.

To support our strategic objectives, we have three key strategies that drive our approach. Our strategies are to:

- seize opportunities to have the greatest impact
- protect, inform and empower consumers and businesses
- be trusted, influential and high performing.

The first two determine what we are going to do and how we are going to do it. The third sets out how we must shape our organisation to deliver on the other strategies. We engage our strategies when selecting our priorities across each of our main areas of our work so they inform the work that we do to achieve our strategic objectives and our vision.

Our organisation's values form the foundation of our strategic framework. They guide the way we operate to implement our three strategies to achieve our strategic objectives.

Our current vision and strategy continued to inform our work in 2021/22. However, we also began work to refresh our strategic framework in preparation for a new Statement of Intent planned for publication in 2023. Our new Statement of Intent will apply to the period 2023–2027. It will identify the outcomes we are seeking to achieve for New Zealanders through our work as well as explain how we will achieve those outcomes and measure their impact. Te ao Māori has a role in our new strategy as we grow our knowledge and aspire to bring our Rautaki Māori to life in our work.


New Zealanders are better off
Markets work well
Consumers and businesses are confident
Strategic objectives
We will seize opportunities to have the greatest impact
We will protect, inform and empower consumers and businesses
We will be trusted, influential and high-performing
Strategies
Excellence
Integrity
Accountability
Respect
Good judgement
Values

The Commission expanded its strategic approach by developing its Rautaki Māori mō Te Komihana Tauhokohoko (Rautaki Māori | Māori Strategy).

The Rautaki Māori | Māori Strategy supports the Commission to build its capability in and knowledge of te ao Māori. This helps us to better support Māori interests and the Māori-Crown relationship.

In 2021/22, the Commission:

- delivered to Commissioners and staff the Mana Aki programme, te Tiriti o Waitangi training and the Wall Walk®, which is designed to raise awareness of key events in the history of New Zealand
- established a Māori employee network to connect Māori employees to support one another in both their career and te ao Māori journeys
- began development of a Commission app to support the organisation's understanding of Māoritanga
- developed the Mahere Reo mō Te Komihana Tauhokohoko (the Commission's Māori Language Plan) in furtherance of the Maihi Karauna (the Crown's Strategy for Māori Language Revitalisation)
- engaged with Māori in relation to the groceries and residential building supplies market studies to enable us to make recommendations directed to addressing challenges shared by Māori and other submitters as well as those reflecting uniquely Māori challenges.


COMMERCE
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Te Komihana Tauhokohoko

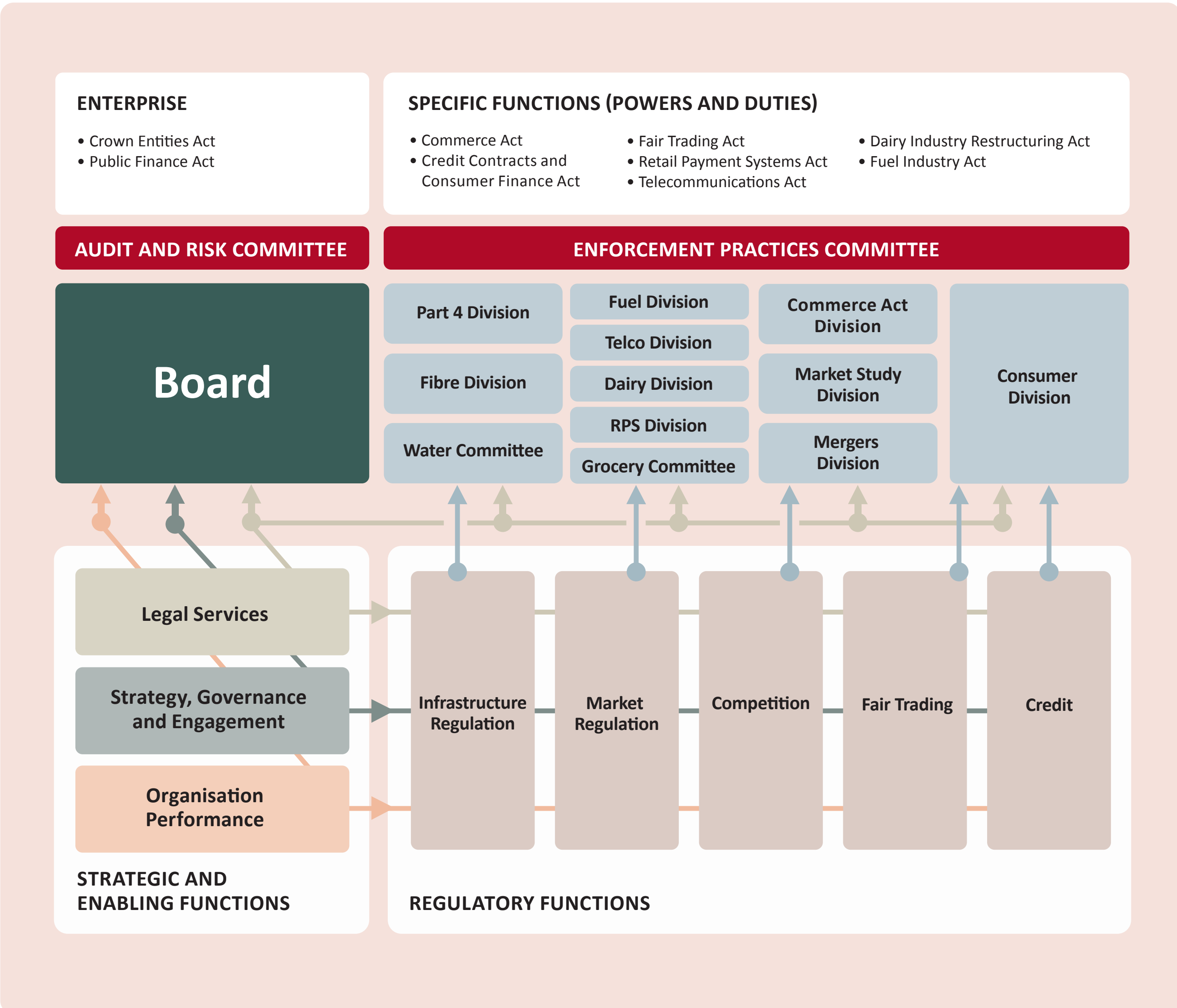
Who we are
Ko wai mātou

Our role
Te wāhi ki a mātou

The Commission is an independent Crown entity with a Commission structure.

- Our Commissioners are the Commission's board under the Crown Entities Act 2004.
- Together with our Associate Commissioners, they exercise functions, powers and duties under the Commerce Act 1986 and other Acts.

The graphic below shows the Commission's current operating model.



Continuing to grow and adapt

He tipu haere tonu, kia tau ai

Our organisation has grown from 180 staff six years ago to a headcount of 328 staff in 2021/22. We expect further growth to enable us to implement new regulatory responsibilities relating to the retail payment system, groceries and the economic regulation of water entities.

In recent years, our Fit for the Future transformation programme has enabled the Commission to operate in a way that delivers on expectations while we continue to experience rapid growth in our regulatory responsibilities and increased expectations from New Zealanders and the government.

In 2021/22, we continued to make structural changes to deliver on our expanded mandate, including reviewing the Commission's economics functions. The final phase of this transformation programme will be completed in 2022/23 through the implementation of a new structure and operating model for these economics functions. In our new structure, regulatory branches deliver competition, fair trading, consumer credit, infrastructure regulation and market regulation work and are supported by three strategic and enabling branches providing legal services, strategy, governance and engagement, and organisation performance.

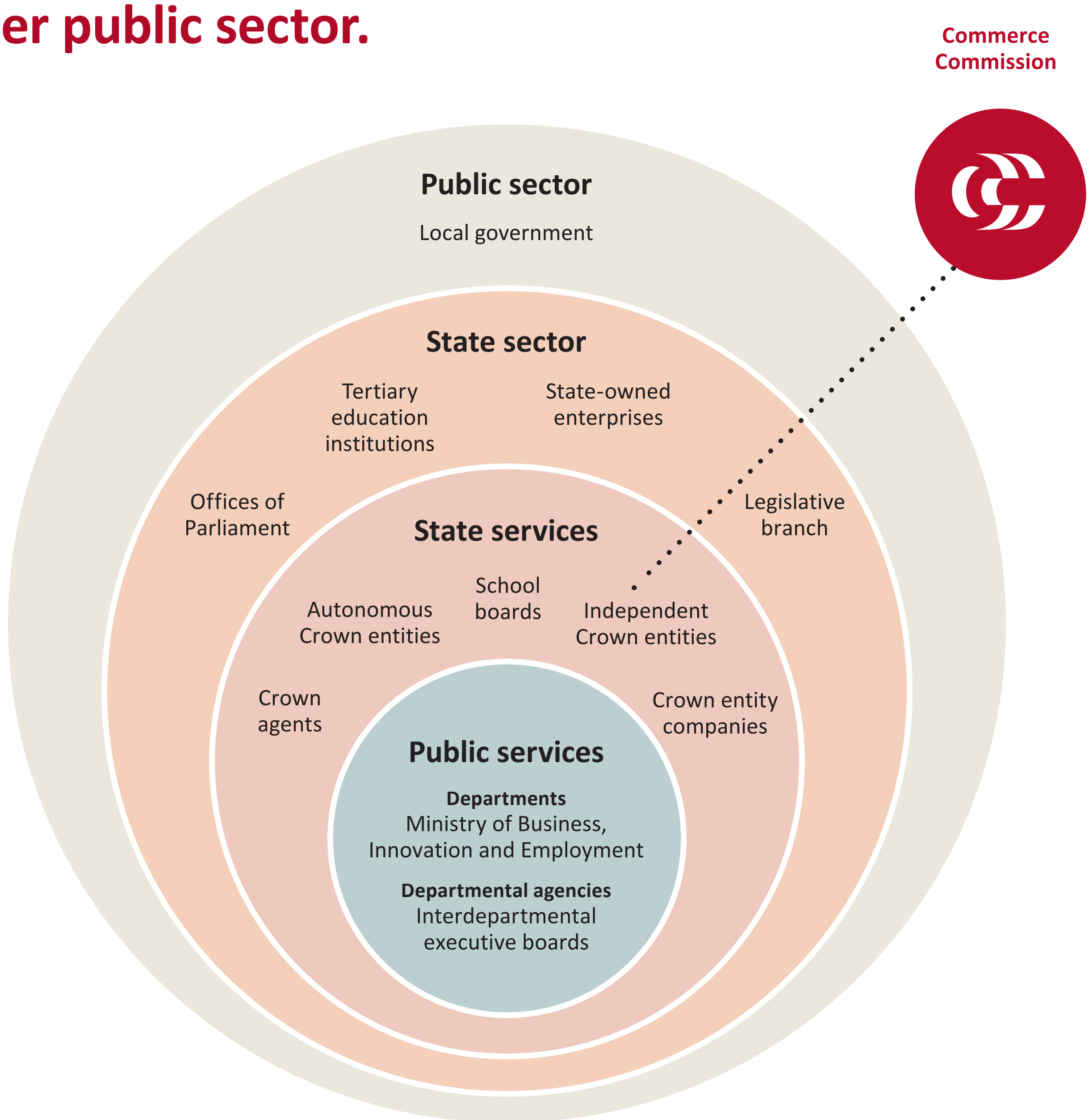
Through a series of enterprise projects, we have continued to focus on developing the Commission's governance, strategic and business planning frameworks.

We have also seen changes to the Commission's Board. Associate Commissioner John Crawford left the Commission in December 2021. Our outgoing Chair, Anna Rawlings, moved to an Associate Commissioner role, and our new Chair, Dr John Small, was appointed in December 2022. We expect a change in Deputy Chair and the appointment of additional Commissioners in 2022/23. Nathan Strong and Bryan Chapple joined as Associate Commissioners in 2022/23.

Independent but not alone
He tū motuhake, he tū huihui

As an independent Crown entity, the Commission is part of New Zealand's state services, which sit within the wider public sector.

We must work together for the wellbeing of all
Me mahi tahiu tātou mō te oranga o te katoa



As part of the public sector, we act with a spirit of service to the community and meet high standards of integrity and conduct consistent with the State Services Code of Conduct. Being fair, impartial, responsible and trustworthy are the behaviours and values we follow at the Commission.

While we are part of the public sector, the independence of our decision making is important to ensure we carry out our regulatory functions in an impartial and fair manner. We are not subject to direction from the government in carrying out our enforcement and regulatory activities, and we are required to be an impartial promoter and enforcer of the law. We have a Commission structure, which means our Board members are also Commissioners involved in decision making. We are primarily accountable to the Minister of Commerce and Consumer Affairs and the Minister for the Digital Economy and Communications for our performance. The Ministry of Business, Innovation and Employment (MBIE) is our monitoring agency.

Consumers, community agencies and industry

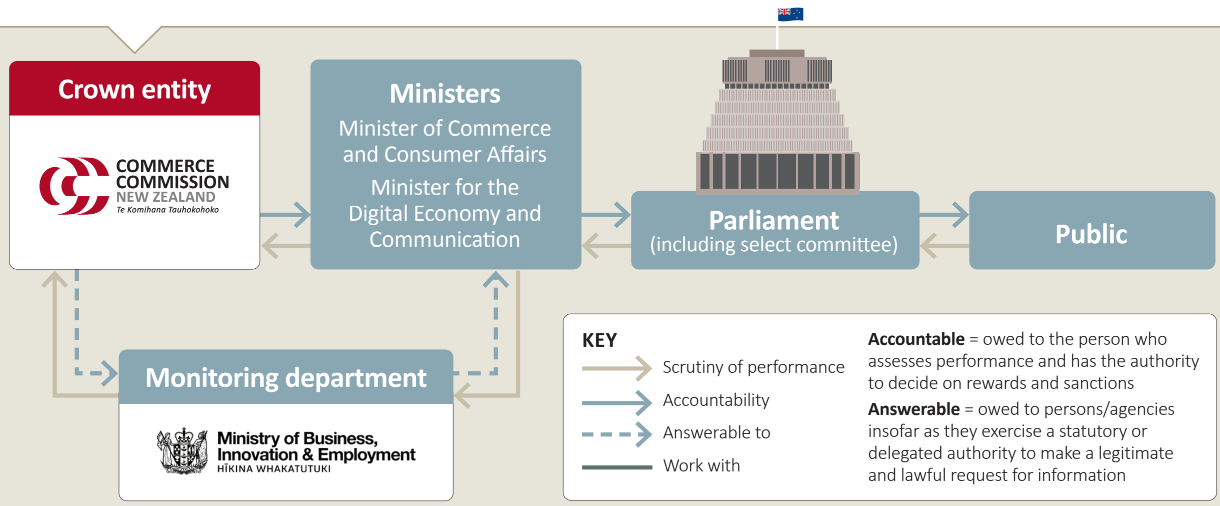
Businesses, including regulated industries and representative organisations

International agencies and networks

- Australian Competition and Consumer Commission
- Australian Securities and Investments Commission
- Competition and Consumer Commission of Singapore
- Competition Bureau Canada
- International Competition Network
- International Consumer Protection and Enforcement Network
- Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities
- Organisation for Economic Co-operation and Development (OECD)
- United Kingdom Competition and Markets Authority
- United States Federal Trade Commission
- Utility Regulators Forum

Central government and other regulatory enforcement agencies

- Civil Aviation Authority
- Council of Financial Regulators
- Department of Internal Affairs
- Electricity Authority
- Financial Markets Authority
- Land Information New Zealand
- Medsafe
- Ministry of Business, Innovation and Employment
- Ministry of Health
- Ministry for Primary Industries
- New Zealand Police
- Overseas Investment Office
- Productivity Commission
- Reserve Bank of New Zealand
- Serious Fraud Office
- Waka Kotahi



We foster relationships with other public sector organisations within New Zealand and with our counterpart agencies around the world. These relationships enable us to draw upon the expertise of others, share our knowledge and experience and work with others to support the efficient functioning of the overall regulatory systems within which we operate.

MBIE provides Ministers with policy advice that impacts the laws that we administer and enforce. We provide insights and advice within our areas of expertise to assist MBIE with this task as well as submitting on the development of legislation that is relevant to our work.

We also work alongside other domestic public sector organisations both directly and through various groups and forums focused on sector-specific issues. For example, we remain active in the Independent Crown Entities Forum, which the Commission helped establish in 2020, we participate in and promote the Government Regulatory Practice Initiative and we are a member of the Council of Financial Regulators.

We work with other enforcement and regulatory agencies and have memoranda of understanding that govern how we work together. In the 2021/22 financial year, the Commission signed new memoranda of understanding with Land Information New Zealand and the Reserve Bank of New Zealand.

New Zealand is a small, open economy that is often served by large multi-nationals. Conduct of businesses overseas often affects New Zealand markets. It is essential that the Commission is connected to its international counterparts. We have strong working relationships with the Australian Competition and Consumer Commission, the United States Federal Trade Commission and Department of Justice, the Competition Bureau Canada and the United Kingdom Competition and Markets Authority. We also work with other similar agencies through our participation in international groups and networks such as the International Competition Network, the International Consumer Protection and Enforcement Network, the OECD's Competition Committee and the Utility Regulators Forum.

Our contribution to New Zealanders

Tā mātou whai koha ki ngā tāngata o Aotearoa

Our contribution to New Zealanders

Tā mātou whai koha ki ngā tāngata o Aotearoa

Our strategies support our strategic objectives and drive our work programme across each of our main areas of work:

- **Promoting competition** in markets throughout the economy.
- **Tackling harm to consumers**, including from unfair trade practices and lending practices that breach consumer credit laws.
- **Influencing monopoly infrastructure** performance for better essential services.
- **Improving competition** in regulated markets.

Our work also supports achievement of the three current government objectives:

- To keep New Zealanders safe from COVID-19.
- To accelerate New Zealand's economic recovery.
- To lay the foundations for a better future.

All of our work supports these objectives by helping markets to work well and enhancing consumer and business confidence as market participants. In 2021/22, we also utilised some of the additional funding from Budget 2020 that was carried over to assist us to protect and promote competition in markets as part of New Zealand's economic recovery.

We have continued to engage with lenders responding to customers in financial difficulty, assisted policy makers to consider the potential impact on competition of policy decisions made in response to the economic challenges of COVID-19, including through participation in cross-agency workshops for key sectors, and we have continued to engage with industry associations and professional bodies to understand the ongoing impacts of COVID-19 on competition. When businesses were affected by COVID-19 and associated restrictions during the year, we continued to take a pragmatic approach by extending timeframes for the provision of information to our investigations staff and in relation to enforcement against regulated businesses in the energy, telecommunications and airport sectors.

As the pandemic evolved, rapid antigen test (RAT) kits became available in New Zealand, and in January 2022, we provided information to the Ministry of Health on the potential application of the Fair Trading Act 1986 and Commerce Act 1986 to the supply of RATs.

We contributed to the government objective to lay the foundation for a better future through our telecommunications and economic regulation work, which incentivises efficient investment in infrastructure needed to deliver services to New Zealanders. Our market studies also focused on identifying factors affecting competition and recommendations for improving competition in the groceries and building supplies sectors, which impact New Zealanders' daily lives and wellbeing.

Strategic objective performance indicators

We describe highlights in each of our areas of work in 2021/22 and achievements against strategic objectives specific to each area of our work in the sections of this Annual Report that follow.

The state of competition in New Zealand markets and the performance of regulated entities provides an indication of how well markets are working. We measured our performance against this strategic objective as set out below.

Strategic objective	Performance indicator	Target	2021/22	Baseline
State of competition in New Zealand markets	**World Economic Forum Global Competitiveness Report** New Zealand's extent of market dominance score	Maintain or increase	**This information was not published in 2021/22**	52.7 points out of 100 points (in 2019)
	World Economic Forum Global Competitiveness Report New Zealand's competition in services score	Maintain or increase	**This information was not published in 2021/22**	73.1 points out of 100 points (in 2019)
Regulated suppliers provide strong and sustainable infrastructure that benefits New Zealanders	**Commerce Commission's analysis** An assessment by the Commission based on an analysis of a range of metrics relating to the per-formance of regulated suppliers such as profitability and quality of services	Achieved	**Achieved**	Achieved

An assessment of a range of metrics relating to the performance of regulated suppliers such as profitability and quality of services is contained below in the *Influencing monopoly infrastructure performance for better essential services* section and *Our other market regulations work* section.

We are continuing to identify appropriate and consistently available measures of our achievement against our strategic objective to promote competition in markets throughout the economy.

The Commission measures businesses' understanding of responsibilities of competition and consumer laws through biennial surveys. The last survey was held in 2020/21 and the results are outlined in the table below.

Indicator

Strategic objective: Consumer and business confidence

	Target	2021/22	2020/21	2019/20	2018/19
Businesses are confident other businesses are complying with competition and consumer laws	Maintain or increase confidence	**No new result**	54%	**No new result**	63%
Businesses understand their responsibilities under competition and consumer laws	Maintain or increase confidence	**No new result**	63%	**No new result**	68%

Other than matters discussed in this Annual Report, we are not aware of any other significant events that will result in a material difference in survey results since the last survey in 2021. The Commission continues to work towards contributing to business confidence through taking appropriate enforcement action and through effective regulation of markets and monopoly infrastructure.

Case study

Collecting insights about what matters to New Zealanders

In 2021/22, we continued to improve the ways we collect information about the issues within our remit that concern New Zealanders most. We use this information to inform our focus areas and shape our work programme as well as identifying conduct for investigation and compliance work.

In 2022/23 we will continue to improve our surveillance and intelligence capability, processes and data so we can target our efforts in the areas where we can have the greatest impact.

Complaints provide important insights into the consumer experience of markets and are a significant source of information for the Commission. In 2021/22, the Commission received 7,837 enquiries compared to 9,870 in the 2020/21 year. This represents a return to pre-COVID levels. While themes raised in complaints to the Commission remained generally consistent with previous years, we received fewer complaints related to COVID-19 disruptions such as those related to cancelled events and flights.

The most complained about sectors included domestic appliance retailers and telecommunications providers. In addition, it is likely that cost of living concerns and the Commission's recent market study into supermarkets contributed to an increased number of complaints about supermarkets. Issues most complained about included misleading promotional representations, refunds not being provided, non-delivery of products and, in the case of telecommunications, pricing and service quality.

Our engagement with stakeholders also provided us with information and insights that we have used to inform our work. In 2021/22 this included engagement with businesses, industry organisations, consumer interest groups and community organisations.

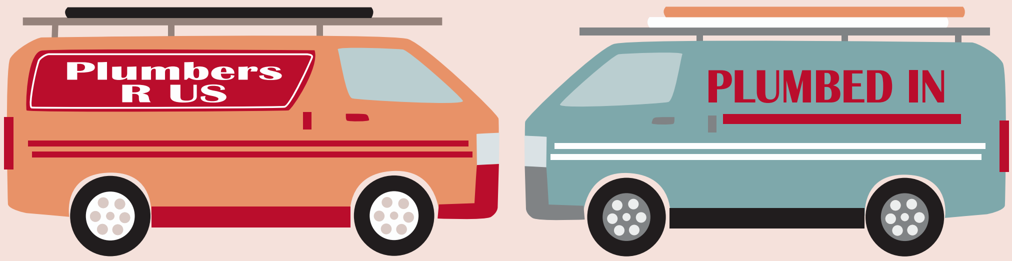
We have expanded our engagement with consumer protection and regulatory agencies in Aotearoa New Zealand and overseas to improve our access to, and understanding of, compliance issues and trends observed by them. For example, we engaged with the Funeral Directors Association of New Zealand to better understand potential fair trading compliance issues in the sector. Other work of this nature is described later in this Annual Report.

Our engagement with industry associations, freight and waste sectors, and financial services sectors allowed us to better understand changes in markets arising from supply chain issues, contractual changes and collaboration in relation to sustainability in 2021/22. We have used this information to help inform prioritisation of our competition work.

Our engagement with financial mentors and community organisations working with borrowers, such as FinCap, Salvation Army, Christians Against Poverty and Community Law Aotearoa, enabled us to identify themes in borrower experiences and potentially systemic issues associated with consumer credit.

In 2021/22, the Commission has developed a web portal to improve the experience of stakeholders submitting information and complaints. More robust insights are being generated from analysis of big data with a view to improving the Commission's regulatory functions.

Promoting competition in markets throughout the economy
Te whakatairanga i te whakataetae puta noa i te ōhanga



Competitive markets can deliver long-term benefits to New Zealanders. Competition between businesses contributes to more affordably priced goods and services at the quality that consumers demand, stronger incentives for businesses to innovate and make efficient use of resources and increased productivity in our economy.

Through our competition investigations, merger control, cartel investigations and market studies work, we seek to protect and enhance competition in markets, including:

- impediments to competition being reduced
- anti-competitive conduct being deterred
- harm caused by misuse of market power being reduced.

Our engagement and competition compliance work promotes a wider understanding of the benefits of competition and obligations arising under the Commerce Act and helps us to collect information about competition issues affecting New Zealand businesses and consumers.

In 2021/22, our engagement and competition compliance work included supporting economic recovery from the COVID-19 pandemic. In addition to our enduring priorities of effective merger control and enforcement action against cartel conduct, the provision of competition advice to government entities considering policy initiatives that could impact competition in markets was a focus area. We developed the Competition Assessment Guidelines to explain the importance of considering the effects of government policy and action on competition and to help public officials take these into account when formulating initiatives that may affect competition in markets.

Case study

Promoting consideration of competition in initiatives that impact markets

Government policy and action in markets can affect the incentives of businesses to compete.

Government policy and action in markets can support competition by making it easier for consumers to compare and choose between different goods and services or negatively impact on competition by imposing barriers for businesses to enter or expand in markets.

In 2021/22, the Commission published its Competition Assessment Guidelines in partnership with MBIE. The guidelines provide a practical tool for those involved in policy design as well as other interested parties. The guidelines explain why promoting competition is important, highlight actions that may affect competition (for example, subsidies, standard setting and exclusivity grants) and provide examples of alternative ways to achieve policy objectives that may be less restrictive of competition.

Work undertaken in 2021/22 on the Commission's market study into competition in the supply and acquisition of key residential building supplies highlighted the way in which a regulatory system can create barriers to competition.

The Commission found that the building regulatory system, while having the important objectives of providing safe, healthy and durable homes for New Zealanders, also prevents competition from working well by incentivising designers, builders and building consent authorities to favour the use of familiar building products over new or competing products. In its final report in December 2022, the Commission recommended that competition be introduced as an objective to be promoted in the building regulatory system alongside other objectives. It also recommended reducing barriers to entry in the sector such as by creating more compliance pathways for a broader range of key building supplies and making it easier for designers and market participants to use and adopt new or competing building supplies.

Mergers and acquisitions

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

Case study

Responsiveness to elevated level of merger and acquisition activity

Effective merger control is a vital tool in preserving competition in our economy. The effects of mergers are permanent, and an acquisition that substantially lessens competition can cost consumers and businesses for many years.

In 2021/22, there was a very high level of merger and acquisition activity in New Zealand and around the world. The Commission analysed 21 applications for clearance in the 2021/22 year – around twice as many as the annual average for the previous five years. In response to the increased volume, the Commission seconded people from elsewhere in the Commission and revisited processes with an eye to making efficiency improvements. Despite the significant increase in volume, we were able to meet our merger timeliness KPIs. Many of the process improvements we employed continue even after activity levels have returned to normal.

Of the 21 mergers reviewed, seven did not proceed. International mergers in the sectors of business insurance and container handling equipment were abandoned after concerns were raised by several competition agencies globally, including the Commission.

Divestments were required to remedy competition concerns in three mergers in the retail fuel, hospitals and multi-functional taps sectors. The Commission granted clearance for Ampol Limited to acquire 100% of the shares in Z Energy Limited in a transaction worth around $2 billion, subject to undertakings from Ampol to sell the entirety of Gull to a purchaser approved by the Commission. The undertakings required Ampol to ensure the Gull business was preserved until it was divested. Allegro Funds' acquisition of Gull subsequently completed on 27 July 2022.

Several applications for clearance involved complex transactions and markets of critical importance to New Zealand consumers, including in the retail fuel, electricity and telecommunications sectors. For example, the Commission considered Mercury's $467 million proposed acquisition of the electricity and gas retail business of Trustpower and Vocus's merger with 2degrees, combining $1.2 billion in broadband and mobile services assets. Both transactions were cleared within two months.

Investigating transactions that substantially lessen competition

We investigate business mergers and acquisitions that may substantially lessen competition where clearance has not been sought and where we consider the acquisition may substantially lessen competition. In 2021/22, we prosecuted a company for acquiring its main competitor for the supply of software to regional councils for use when processing building consent applications, which resulted in a substantial lessening of competition. Penalties of $1.54 million were imposed on the company.

Investigating cartels

The Commission can investigate and bring proceedings against cartel participants and seek the imposition of pecuniary penalties. Since 8 April 2021, we have also been able to prosecute cartel conduct as a criminal offence subject to a term of imprisonment.

A cartel is formed when two or more businesses agree not to compete with each other, including by price fixing, allocating markets or customers, rigging bids or restricting the output or acquisition of goods and services. Cartel conduct harms consumers by preventing businesses from competing to provide better-quality services at better prices, and it harms businesses that are trying to compete fairly. In 2021/22, we extended our educational advertising campaign describing what constitutes cartel conduct and explaining how to report a cartel to the Commission. This campaign reached 1.2 million people. We continue to see our reporting channels well utilised. These channels include applications for leniency, use of our anonymous whistleblower tool and complaints reporting alleged cartel conduct.

In 2021/22, in this important area of work and with the ability to now bring a criminal prosecution, we worked closely with domestic and international agencies, particularly the United States Department of Justice and the Australian Competition and Consumer Commission (ACCC), to train our staff to undertake investigations into cartels.

We have continued our civil enforcement work with a focus on cartel conduct in relation to supply of essential goods or services or affecting supply chains. We have also considered how cartel laws apply in novel situations such as those relating to digital or sustainability markets. For example, in 2021/22, the High Court confirmed that two loan providers engaged in cartel conduct when they agreed not to bid on each other's Google Adwords. Their conduct restricted information available to consumers, which could result in them paying higher prices or receiving lower-quality services. We warned a company for an attempt to enter a customer allocation agreement in the fast-growing sustainable packaging industry.

Case study

Tackling cartel conduct in the global supply chain

International freight is important to New Zealand's economy. In 2021/22, we continued to focus on identifying potential anti-competitive conduct in global supply chains.

In February 2022, the Commission joined with international counterparts from Australia, Canada, the United Kingdom and the United States in a working group focused on identifying and investigating potential cartel conduct arising from disruption in global supply chains.

Independent of this work, the Commission filed proceedings alleging that international freight-forwarding companies had entered into longstanding agreements with their competitors not to compete for customers. The cartel agreements pre-dated the COVID-19 pandemic and made it possible that customers were charged more for retail freight-forwarding services than they would have been charged if the companies had actively competed for customers.

The High Court imposed penalties of nearly $5 million each on two of the international freight-forwarding companies and penalties ranging from $65,000 to $100,000 on four individuals associated with those companies. The Commission also issued warnings to a further eight international freight-forwarding companies that we considered had likely entered into cartel agreements to not compete for customers with either or both of the two companies that were prosecuted.

Authorising conduct that substantially lessens competition

The Commerce Act prohibits agreements that lead to anti-competitive outcomes such as increased prices or lack of choice for consumers. However, the Commission can authorise anti-competitive agreements in some cases where the public benefits of doing so outweigh the competitive harms. In 2021/22, we made decisions on three authorisation applications and gave provisional authorisations for two of these.

In 2021/22, we authorised collective bargaining by chicken growers negotiating with the main chicken products producer and some news media providers bargaining with Facebook and Google. We also granted our first provisional authorisations in relation to these agreements following the introduction of an interim authorisation power in 2020, which was permanently adopted in the Commerce Act in 2022.

We authorised HP New Zealand Limited to engage in resale price maintenance in relation to its proposed HP online marketplace stores for a period of five years. Resale price maintenance occurs when a supplier of goods enforces or tries to enforce a minimum price at which the reseller must on-sell those goods. In this case, the Commission reached the view that authorising the resale price maintenance would result in a net public benefit by providing a number of customer-experience benefits.

Other investigations and enforcement activity

In 2021/22, we concluded investigations into resale price maintenance in the consumer electronics sector and issued a number of warnings to businesses. We also published updated guidance to assist businesses to understand when resale price maintenance arises and how it may harm competition.

We focused on anti-competitive land covenants – where a party places a legal restriction on how land can be used, which can limit competitors' access to suitable sites upon which to establish competing businesses. We also identified the potential impact of land covenants and exclusive leases affecting competition in our fuel, groceries and building supplies market studies. We continue to investigate land covenants in the groceries sector, and independent of our market study, we have taken a decision to take enforcement action against another in the building supplies sector.

Market studies

A market study is a tool that enables the Commission to consider whether competition in a particular market or markets is working well and, if not, what can be done to improve it. In 2021/22, the Commission concluded its market study focusing on the supply and acquisition of groceries by retailers in New Zealand and commenced its market study into the supply and acquisition of key residential building supplies.

Grocery market study

The final report on the retail grocery market study was published on 8 March 2022 after an extension following COVID-19 restrictions in late 2021. It concluded that competition was not working as well as it could and made a number of recommendations. The government accepted most of the recommendations to improve competition and has introduced the Grocery Industry Competition Bill, which is currently before Parliament. The Bill includes provisions to establish a grocery regulator to provide general oversight of the grocery industry, monitor and report on the industry's performance and ensure compliance with the regulatory regime.

The infographics on the next page outline a summary of findings and recommendations of the grocery market study.

Retail Grocery Market Study

Summary of findings

Competition in the retail grocery sector is not working well for consumers. If competition was more effective, retailers would face stronger pressure to deliver the right prices, quality and range to satisfy a diverse range of consumer preferences.

Competition issues

Competition is dominated by two major retailers:

Foodstuffs

Woolworths New Zealand

While there is an increasingly **diverse fringe of other retailers**, they have a limited impact on competition as they are **unable to compete effectively** with the major grocery retailers on **price, product range, and store locations** to offer consumers the convenience of one-stop shopping.

The intensity of competition between the major grocery retailers is muted. Competitors wanting to enter or expand face **significant challenges** including:

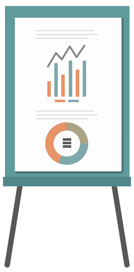
- A lack of suitable sites for store development
- Difficulties in obtaining competitively price wholesale supply of a wide range of groceries.

Market observations

New Zealand grocery prices appear **high** by international standards.

Profitability of the major grocery retailers appears **high**.

The scale and pace of **innovation** in the sector appears **lower than expected**.



Issues facing suppliers

Competition in the wholesale purchasing of groceries is **not working well** for many suppliers.

Many suppliers are reliant on the two major grocery retailers. This allows the major grocery retailers to **transfer costs, risks and uncertainty** onto suppliers, with fears of having their products removed from store shelves if they do not agree to the terms.

This can reduce the ability and incentive for suppliers to invest and innovate, reducing choice for consumers.

Issues facing consumers

The complexity of the major grocery retailers' **pricing strategies, promotions and loyalty programmes can confuse consumers** and make it difficult for consumers to make informed purchasing decisions and shop around.

Consumers are generally not aware of how much personal data they are giving away and how it is used when signing up to loyalty programmes.

Retail Grocery Market Study

Recommendations

We recommend a suite of changes to increase competition and help improve the price, quality and range of groceries available to New Zealanders.

Make it easier for independent grocery retailers to set up and expand

- Make more land available for new grocery stores
  - Change planning laws to free up sites
  - Ban the use of restrictive covenants that prevent retail grocery stores from being developed
  - Monitor land banking by the major grocery retailers
- Improve access to wholesale supply of groceries
  - Regulate to require major grocery retailers to fairly consider requests to supply competitors
  - Require the criteria and terms and conditions of wholesale supply to be transparent.
- Monitor strategic conduct by the major grocery retailers.

Improve relationships between grocery retailers and suppliers

- Introduce a mandatory code of conduct for grocery supply relationships to improve transparency and ban unfair conduct.
- Strengthen protections against unfair terms in standard form contracts.
- Consider allowing collective bargaining by some suppliers.

Help consumers make more informed decisions

- Introduce mandatory unit pricing.
- Major grocery retailers should ensure their promotional and pricing practices are easy to understand.
- Major grocery retailers should ensure consumers can easily access and understand their loyalty programmes' terms and conditions. consumers.

Support the implementation of regulatory measures and monitor the sector

- Establish a dedicated grocery regulator to provide monitoring and oversight.
- Establish a dispute resolution mechanism to resolve wholesale and supplier disputes.
- Review industry competitiveness three years after recommendations have been implemented.

Residential building supplies market study

On 22 November 2021, the Commission commenced a market study into competition for the supply or acquisition of key building supplies used to build the major components of residential buildings. During the remainder of 2021/22, we published and consulted on a series of process and issues papers that helped to define the scope of the study, engaged an industry expert to provide views and opinions to assist us to assess potential barriers to entry and expansion of key building supplies and undertook a number of interviews and surveys of industry participants. Our draft report was published in July 2022, with a consultation conference held in September 2022 to test the preliminary findings and draft recommendations with interested parties and to clarify comments received on the draft report.

The final report on residential building supplies was released on 6 December 2022.

Changing scope of legislative functions and powers

Our market studies in the fuel and groceries sectors included recommendations for improvements to competition that have shaped new regulatory systems intended to produce improved market outcomes for New Zealand consumers.

This includes provisions of the Fuel Industry Act 2020 regulating the wholesale supply of fuel and the provision of information to consumers to help them to compare prices. Throughout the 2021/22 year, we contributed to MBIE's development of a regulatory backstop to support effective implementation of the Fuel Industry Act, as well as implementing the Fuel Industry Act, discussed later in this Annual Report.

We contributed to the development of the Grocery Industry Competition Bill, which will give effect to many of the recommendations we made in the groceries market study. We also acquired responsibility for enforcement of a prohibition of covenants impeding the development of retail grocery stores through amendment to the Commerce Act, which came into effect in June 2022.

During 2021/22, we began preparing for a change to section 36 of the Commerce Act, which will prohibit the misuse of market power with anti-competitive purpose, effect or likely effect. Currently and until April 2023, the Commerce Act prohibits a business with a substantial degree of market power from misusing it for a proscribed purpose. As part of preparing for the change, we have been educating businesses about the change in focus from the intent of conduct to its effect or likely effect on competition.

Influencing monopoly infrastructure performance for better essential services
Te whakaaweawe i tā te hanganga tutukitanga kia pai ake ngā tino ratonga

The Commission regulates the monopoly infrastructure aspects of the supply chain in specific essential services industries such as electricity, gas, airports and fibre networks. In most cases, consumers have no alternative but to rely on these networks.

We use economic regulatory tools to promote outcomes consistent with those found in competitive markets so that consumers are not disadvantaged by a lack of competition.

We regulate electricity lines, gas pipelines and certain airport services under Part 4 of the Commerce Act and fibre networks under Part 6 of the Telecommunications Act 2001. These regulations enable investment and innovation in critical infrastructure for the long-term benefit of consumers. This includes the investment required to ensure the infrastructure industries in New Zealand are prepared for changes such as decarbonisation. Each regime ensures consumers receive appropriate minimum levels of service quality while service providers make reasonable profits.

To promote these outcomes, we set price-quality paths for most of the regulated businesses. We also require the regulated businesses to disclose information about their performance and provide analysis of that information. We can take enforcement action when businesses break the rules.

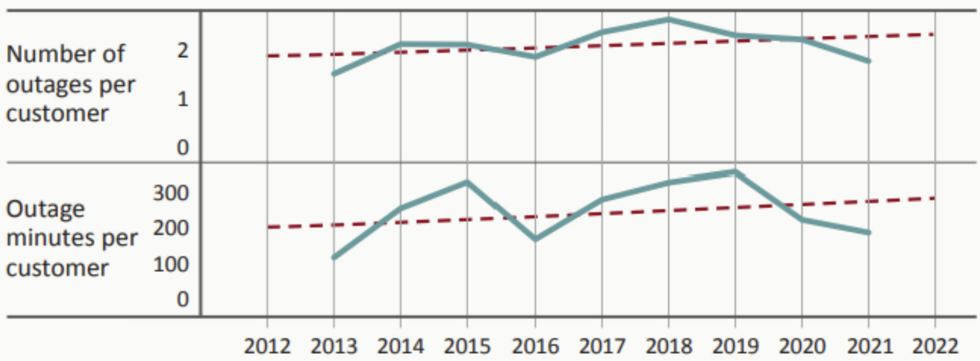
Below we outline key aspects of our work in 2021/22 in relation to each of these sectors, including an assessment of performance against the strategic performance indicators in our Statement of Intent 2020-2024.

Electricity networks

Electricity networks connect power generators to homes and businesses across New Zealand. Under Part 4 of the Commerce Act, the Commission's role is to regulate the monopoly providers of electricity lines services. In July 2022, we completed our annual analysis of the performance of electricity lines businesses.

Indicator

Strategic objective: Markets work well



Regulated suppliers provide strong and sustainable infrastructure

The average number and duration of outages that each customer experiences have remained similar over time. While there were more outages in total in the year ended March 2021, each outage affected fewer customers on average but lasted slightly longer.

Outages are categorised as planned (notified in advance) or unplanned. Planned outages allow work to be completed on the network, while unplanned outages are caused by external events such as adverse weather or defective equipment. Outages caused by very severe storms and other major events are excluded from our analysis. Almost all lines companies had more frequent and longer planned outages. This reflects the high level of investment to improve and replace assets. Some lines companies have also recently made changes to health and safety practices, which ensure the safety of line workers but can lead to longer-duration outages.

The trends for unplanned outages are different across lines companies because of many varied factors. In 2021, weather events across Aotearoa New Zealand caused flooding and high winds. These affected a number of networks and disrupted electricity supply. However, the duration that customers were without electricity during unplanned outages reduced on average. Reducing the duration of outages requires networks to be resilient and plan for such events by having people and equipment available to respond.

Source: July 2022 Trends in local lines company performance[1]

1. https://comcom.govt.nz/regulated-industries/electricity-lines/electricity-distributor-performance-and-data/trends-in-local-lines-company-performance

Indicator

Strategic objective: Consumer and business confidence

The Commission uses results from the Electricity Authority's consumer survey to measure its contribution to consumer and business confidence in regulated businesses.

	Target	2021/22	2020/21	2019/20	2018/19
Consumers are confident that regulated suppliers are providing services at an appropriate price and quality	Maintain or increase confidence	**Reliability** 62% **Efficiency** 59%	**Reliability** 64% **Efficiency** 65%	Refer to Note 1	Refer to Note 1

In 2021/22, the results are based on the Electricity Authority's consumer survey, now in its second year. In the survey, consumers were asked to rate statements based on the outcomes they could reasonably expect to see in an electricity market that is competitive, reliable and efficient. Results show a reduction in the percentage of domestic consumers surveyed who agreed with the range of statements on electricity reliability and efficiency

Note 1: Results from this survey are not comparable with previous surveys because the questions asked and the scale used have changed. Previous results can be found in our 2020 Annual Report. The results from 2020/21 form the baseline against which progress will now be measured.

Electricity asset management and network reliability

Electricity distribution businesses are required to publish information on prices, measures of quality, financial information and future operating and capital expenditure (including asset management plans) under the information disclosure requirements of Part 4 of the Commerce Act. The information gathered is then used to inform stakeholders, discern trends, make comparisons, highlight asset management practices, set price-quality paths and identify any non-compliance.

In November 2021, the Commission published a review of asset management plans showing that nearly all of New Zealand's 29 electricity distribution businesses have introduced policies and practices to prepare their electricity networks for the country's transition to a low-carbon economy. The asset management plans set out how each company intends to operate and invest in their network over the next 10 years and beyond.

The review of asset management plans[2] found that all electricity distribution businesses recognised that consumer sentiment and government policy on decarbonisation, along with improved technologies, will likely lead to increased electrification and a corresponding increase in demand for electricity on their distribution networks. Nearly all companies reported at least one action they had undertaken or planned to undertake in preparation for decarbonisation.

The review was part of an ongoing dialogue with the energy sector and airports on prioritisation within our work programme. In April 2021, we published an open letter calling for views on emerging issues. In December 2021, we held a workshop to explore in more detail some of the issues raised, including the impact of decarbonisation on electricity lines services.

As a result of this feedback and our own analysis, we decided to commence a targeted review of the information disclosure obligations on electricity distribution businesses. The purpose of the review is to ensure the information captured remains relevant in a changing environment. We have prioritised high-impact and time-sensitive information for the first phase of the review.

2. https://comcom.govt.nz/__data/assets/pdf_file/0032/270896/Decarbonisation-AMP-Review-18-November-2021.pdf

Gas networks

Regulated gas pipeline networks provide homes and businesses with access to natural gas. The Commission regulates the transmission and distribution businesses that own and operate New Zealand's gas pipeline infrastructure. We do this so that gas pipeline businesses have the incentives to deliver reliable and resilient services to consumers at the lowest cost.

On 31 May 2022, we completed a reset of the default price-quality paths that applied to gas distribution and gas transmission businesses from October 2022. There are four gas distribution businesses – First Gas, GasNet, Powerco and Vector. First Gas also has a gas transmission business that provides gas to large users of natural gas such as big industrial plants, electricity generators and gas distribution businesses.

In setting the default price-quality path, we recognised that the economic life of the natural gas pipelines in New Zealand is likely to be shorter than previously expected and that the future use of the pipelines is uncertain. The decision balanced price rises for gas users with the need for gas pipeline businesses to continue to invest appropriately to maintain safe and reliable supply of gas while there is still demand. The decision limited capital expenditure allowances to ensure that gas pipeline businesses act prudently and prioritise their investment decisions. We also set a shorter regulatory period, meaning that the price-quality path will be reviewed in four years rather than the usual five. This is the shortest period that we are able to set. This allows us to consider further developments in 2026, including the impact of future government announcements, changes in technology and consumer preferences.

On 15 December 2021, we published the Trends in gas pipeline business performance[1] report alongside an interactive dashboard summarising the report's main conclusions. The report outlines trends in revenue and reliability for gas pipeline businesses since 2014, including trends in the various components that contribute to the level of revenue. The report and dashboard help enable a better understanding of how the sector is performing – for example, about how and why the price and quality of services provided by gas pipeline businesses have changed over time.

Indicator

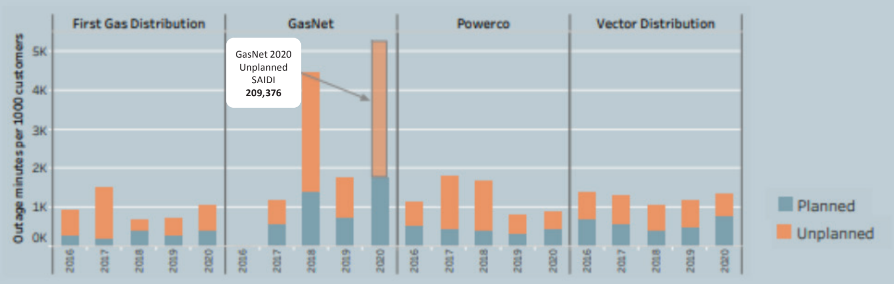
Strategic objective: Markets work well

Regulated suppliers provide strong and sustainable infrastructure

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

We have found that the quality of service metrics we collect for local gas pipelines has generally been improving over time. The total number of outages and the average number and duration of outages have generally been decreasing on all networks except GasNet since 2016. The higher number of unplanned outages per 1,000 customers on GasNet's network in 2018 and 2020 were associated with water leaks, and the 2020 outage resulted in a spike in its interruption expenditure. While the number and duration of outages have decreased on other networks, their interruptions expenditure has increased over time. The number of emergencies experienced by customers and the number of complaints made by customers have also decreased significantly. We expect interruptions to gas transmission services to be infrequent and brief, and this was the case between 2016 and 2020.

*Duration of planed and unplanned outages per 1000 customers for each **local gas pipeline business**, 2016-2020*



Source: December 2021 Trends in gas pipeline business performance[3]

3. https://comcom.govt.nz/regulated-industries/gas-pipelines/gas-pipelines-performance-and-data/trends-in-gas-pipeline-business-performance

Airports

Under Part 4 of the Commerce Act, the Commission regulates specific airport services at New Zealand's three international airports (Auckland, Wellington and Christchurch). The three airports are subject to information disclosure regulation relating to certain key airport facilities and services.

COVID-19 has had a marked effect on the airport services we regulate and our regulatory processes.

In 2021/22, we began our review of Wellington International Airport's price-setting event covering the five-year period from 2019/20 to 2023/24. This was the fourth review for Wellington Airport since information disclosure requirements were set under the Commerce Act. The review involves analysis of Wellington Airport's pricing decisions and expected performance over the period and our views on whether these are likely to promote the long-term benefit of consumers.

The review, originally scheduled for 2019, was delayed to enable the airport to focus on completing its long-term capital expenditure planning consultation. There was a further delay because of the impacts from the COVID-19 pandemic and related travel restrictions. Wellington Airport finally set its prices for the period from 1 April 2019 to 31 March 2024 in April 2021 following consultation with airlines, its major customers. We published our final report in September 2022.

We abbreviated our normal review process, partly in response to the ongoing difficult operating environment for airports and airlines. We acknowledged that this may limit their ability to engage with a protracted or complex consultation process. We focused our review on Wellington Airport's expected profitability and the allocation of risk between Wellington Airport and its customers. We were broadly satisfied with Wellington Airport's pricing decisions and considered that the target return was reasonable and consistent with promoting the long-term benefit of consumers. We were satisfied that other aspects of the pricing decisions were either consistent with or did not detract from the purpose of regulation.

In June 2022, we updated our information disclosure database for airports. It now includes information disclosed between 2007 and 2021. The database can be accessed on our website.

Case study

Regulatory regimes are fit for purpose – Electricity and Gas

In 2021/22, the Commission has continued to ensure that we implement the regulatory regimes applying to energy and airports in ways that are consistent with the environment and context of the relevant sectors.

Our decision setting the default price-quality path for gas pipelines businesses in May 2022 reflected the likely effects of decarbonisation on the sector. We also progressed two pieces of work that look at our wider regulatory tools and processes: the seven-year statutory review of input methodologies and our targeted review of information disclosure requirements.

The purpose of the input methodologies review, which formally began in February 2022, is to review the rules and processes that underpin the regulation of the energy and airport sectors under Part 4 of the Commerce Act. The targeted information disclosure review is an opportunity for us to make changes to the information that electricity distribution businesses are required to disclose to make the disclosure requirements more effective. The key drivers behind both reviews are the changes that are happening in the energy sector, in particular the push to decarbonise the New Zealand economy and wider issues such as climate change and emerging technology.

The gas default price-quality path, input methodologies review and targeted disclosure review followed our 2021 open letter seeking views on the emerging issues for electricity networks, gas networks and airports. They show the flexibility available under the regulatory regimes we administer and how the Commission is working to ensure we provide suppliers with incentives to invest in essential infrastructure and that there are long-term benefits to New Zealanders.

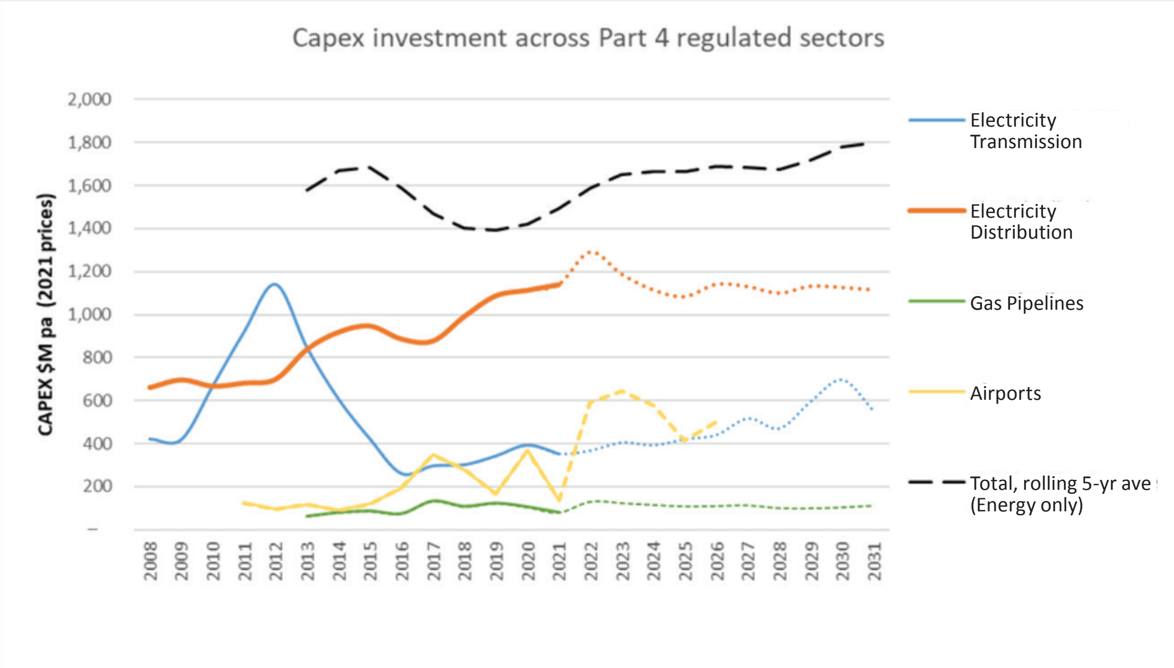
Indicator

Strategic objective: Consumer and business confidence

Our view is that energy networks remain confident about investing in regulated assets but airport investment has been affected by the impact of COVID-19. The energy networks sector invested around $1.2 billion in 2021, and based on the asset management plans of the regulated suppliers, investment is forecast to continue at around $1.1–1.3 billion annually over the next five years. Investment is driven by replacing ageing assets and for network capacity growth. The speed of investment in new capacity remains uncertain because of uncertainty in the timing of uptake in new solar connections, distributed energy resources and decarbonisation projects.

While there has been a decrease in investment in airports in 2021, we consider this is attributed primarily to the ongoing effects of COVID-19 rather than any action taken by the Commission. Investment is forecast to increase significantly in 2022.

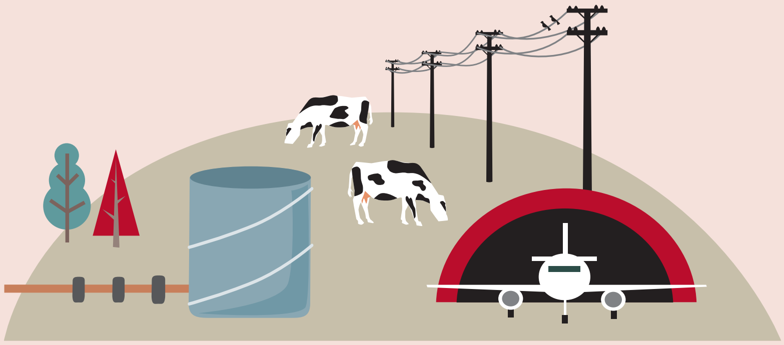
Historical expenditure is displayed in the solid lines in the graph below, with forecast expenditure in dotted lines.



Note: Electricity distribution 2020 $ adjusted for impact of revaluations

Our other market regulation work

Ā mātou mahi ā-ture makete



We also have a role regulating the telecommunications, fibre, fuel, retail payment system and dairy sectors to ensure that these markets work well.

Telecommunications

Telecommunications services support New Zealanders in all aspects of their lives, and as highlighted by the COVID-19 pandemic, they are more important than ever to social and economic wellbeing.

Our telecommunications work illustrates the convergence of the Commission's infrastructure, competition and consumer work. Under the Telecommunications Act, our role spans industry-specific regulation to promote competition and influence the performance of monopoly network infrastructure along with a role in improving retail service quality and making information available in a way that informs consumer choice. In parallel, our role under the Fair Trading Act extends to advocacy and enforcement relating to trade practices of telecommunications providers.

Our 2021 Annual telecommunications monitoring report[4] highlights an ongoing reliance on telecommunications for work, play and connecting with family and friends. The results show increasing data consumption across both fixed broadband and mobile, the accelerating migration from copper broadband connections to fibre and other access technologies and increasing uptake of 'endless' or 'unlimited' mobile bundles. The report also shows that investment in the industry has continued during a period of regulatory transition.

Over the past year, telecommunications infrastructure has remained strong and investment levels have been maintained, providing for growth and resilience overall.

4. https://comcom.govt.nz/__data/assets/pdf_file/0019/279100/2021-Annual-Telecommunications-Monitoring-Report-17-March-2022.pdf

Indicator

Strategic objective: Markets work well

Regulated suppliers provide strong and sustainable infrastructure

In 2021/22 we consider that suppliers of telecommunications networks (whether regulated or not) have generally delivered strong and sustainable infrastructure for the benefit of New Zealanders.

Fixed broadband usage:

In our 2021 monitoring report, we saw average monthly usage increase by 46GB to 330GB across all fixed broadband connections. However, the rate of usage growth eased, with 16% growth in our 2021 monitoring report compared to 37% in our 2020 report.

Fixed wireless connections:

Fixed wireless connections have increased to 276,000, up 25% from 2020. In our 2021 monitoring report, Aotearoa New Zealand ranked fourth highest among OECD countries for fixed wireless broadband connections, with 5.4 subscriptions per 100 people.

Fixed broadband speed:

Aotearoa New Zealand ranked 11th in the OECD in our 2021 monitoring report, with average fixed broadband download speeds of 86Mbps. New Zealand's average fixed broadband download speeds exceeded those of Australia, the United Kingdom and the OECD average of 64Mbps.

Copper transition:

We continue to see New Zealanders swapping from copper broadband connections to fibre and other new technologies, with copper connections dropping to 18% of total broadband connections. In addition, residential landline phones are declining in popularity, with two-thirds of household fixed-line connections now purchased with no voice service.

Mobile broadband usage:

The average amount of mobile data consumed per connection is now 4.21GB per month, up from 3.29GB per month in 2020.

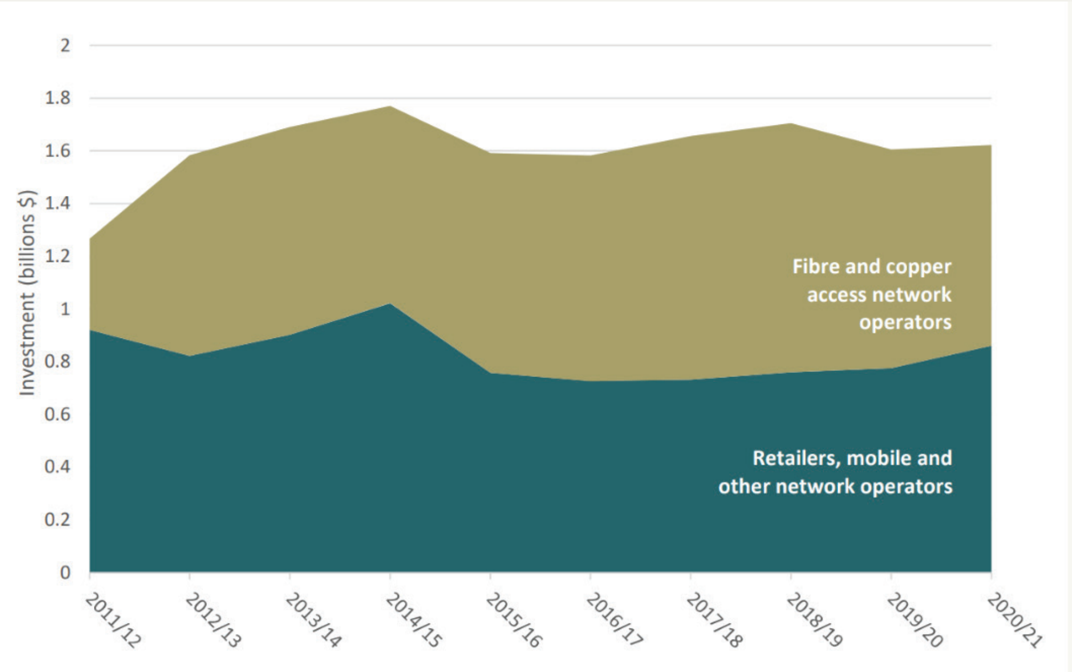
Indicator

Strategic objective: Consumer and business confidence

Regulated suppliers are confident to invest in regulated assets

Our assessment indicates that telecommunications providers of regulated services and in particular fixed fibre services (broadband) remain confident in investing under the regulatory regimes.

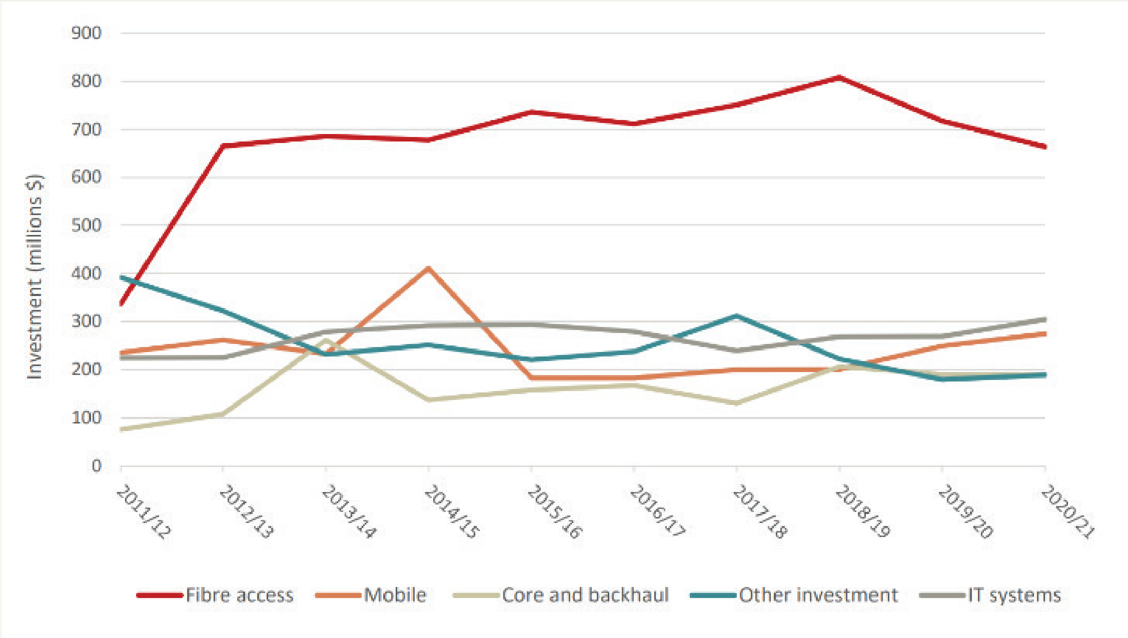
In recent years, telecommunications industry investment has been led by Chorus and the other local fibre companies as shown in the graph below. However, with the ultra-fast broadband build now 98% complete, investment by Chorus and the other local fibre companies has tailed off. This drop has been offset by investment increases in other areas, with overall investment increasing by 1% to $1.62 billion in 2021.



Indicator

Strategic objective: Consumer and business confidence

The graph below shows investment across both regulated and unregulated services broken down by component.



In 2020/21, investment in the fibre access network decreased 8% to $664 million, while investment in mobile networks increased by 10% to $274 million. This lift in mobile access network investment is likely due to the ongoing rollout of 5G.

Investment in the core and backhaul network was unchanged from 2020 at $190 million, while investment in IT systems increased 13% from 2019/20 to $305 million. Other investment, which includes copper access and spectrum investment, increased 5% in 2020/21 to $189 million.

Establishing a stable and predictable fibre regime

On 1 January 2022, the new regulatory regime for fibre services went live, following extensive work by the Commission and industry stakeholders over the prior three years. The new regime is designed to deliver the certainty, stability and predictability that will support ongoing investment in this essential infrastructure.

In the period to commencement, we established the core components of the new regime by issuing two key decisions, building on the input methodologies framework finalised last year. This work is outlined in more detail in the case study below.

Alongside this work, we published guidance on our approach to geographically consistent pricing under section 201 of the Telecommunications Act and began the process of assessing an individual capital expenditure proposal that would allow Chorus to make incentive payments to retail service providers to incentivise the uptake or upgrade of fibre services.

All indications are that the new regime is operating as intended to encourage investment and innovation at an appropriate level so that consumers have access to high-quality and affordable broadband services and providers make reasonable profits.

Case study

Driving long-term benefits under new fibre regulatory regime

New Zealand is recognised as a world leader in the deployment and uptake of fibre broadband – 87% of New Zealanders have access to fibre, with an average uptake rate of 70%.

We have been responsible for implementing a new regulatory regime for fibre that promotes consumer interests over the long term by ensuring the outcomes produced are consistent with what would be observed in a competitive market.

We have taken an input methodologies approach to fibre that builds on our experience in electricity, gas and airports. Input methodologies have never been set for fibre networks before, making this pioneering work for the Commission and the industry in New Zealand.

We have put three interlocking measures in place to promote consumer interests over the long term:

- Maximum revenue and quality standards for Chorus, as the largest fibre provider, which constrain its ability to charge excessive prices and secure the quality that New Zealanders have come to expect from their fibre services.
- Information disclosure requirements for Chorus and the other fibre providers that give the Commission and the public timely information to monitor outcomes, market performance, prices and quality for all fibre providers.
- Underlying input methodologies that provide certainty for regulated providers on how key regulatory matters will be determined until they are reviewed in seven years.

Together, these measures are designed to provide for a smooth transition into the new regime and protect quality so that New Zealanders continue to enjoy some of the world's best fibre broadband services. Chorus and the other regulated fibre providers also have continued incentives to invest, innovate and find operational efficiencies for the long-term benefit of fibre end-users.

International ratings agencies Standard & Poor's and Moody's have commented positively on the increased certainty the new regime provides to the market.

Transitional arrangements, including consumer protection

We have put in place rules and processes that protect consumers in the transition from copper to fibre and other new technologies. This includes the Commission 111 Contact Code and Copper Withdrawal Code. These transitional arrangements, along with the core components of the new fibre regime, provide clarity to market participants and consumers on how the new fibre regime works, obligations on industry, protection for consumers and our role as regulator.

Improving outcomes for telecommunications consumers

This year, we have progressed our retail service quality programme, including publishing our findings on retail service quality issues experienced by consumers, completing our review of the Telecommunications Dispute Resolution Scheme and initiating consultation on the next phase of our measuring broadband programme. Together, these activities addressed a number of issues being experienced by telecommunications consumers.

Retail service quality – baseline report

This year, we consulted extensively to deepen our understanding of retail service quality issues, building on the information we already had from earlier work with consumers and industry. This included partnering with Consumer NZ and Research New Zealand in one of the largest surveys in New Zealand on what matters to telecommunications consumers and why.

Our work shows that retail service quality issues are far reaching and span all stages of the telecommunications service lifecycle. We published our findings in our 2021 Improving retail service quality: Final baseline report[5], which identified six key problem areas of:

This report identified six key problem areas:

- billing
- customer service
- product disclosure
- switching providers
- contract issues
- debt practices and affordability.

We are now focused on working with industry and consumer groups to improve outcomes for consumers in each of these areas.

Retail service quality – telecommunications dispute resolution services

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

In 2021/22, we completed our first review of the Telecommunications Dispute Resolution Scheme (TDRS) – the dispute resolution scheme for the telecommunications industry. The Commission is required to review the TDRS at least every three years and report on any recommendations for improving it.

In our 2021 Review of the Telecommunications Dispute Resolution Scheme[6], we called for a number of changes to better align the TDRS with consumer expectations, capture more retail service quality issues, improve the complaint handling process and reduce the time taken for disputes to be resolved.

We also called for governance changes to ensure the TDRS is independent of the Telecommunications Forum, the industry body, and the retail and wholesale telecommunications providers that make up the Telecommunications Forum's membership and to establish and preserve clear lines of accountability.

We phased our recommendations over an 18-month period so that changes that will make the biggest difference for consumers (such as increasing awareness of the scheme and removing barriers to accessing the scheme) are prioritised over other changes that are likely to take more time (such as governance-related changes to increase independence).

We continue to monitor the implementation of our recommendations by the Telecommunications Forum.

5. https://comcom.govt.nz/?a=272930
6. https://comcom.govt.nz/__data/assets/pdf_file/0020/270083/Report-to-the-New-Zealand-Telecommuncations-Forum-on-recommendations-for-improvements-to-the-TDRS-11-November-2021.pdf

Retail service quality – marketing guidelines

This year, we took action to address increasing consumer confusion and concern around the marketing of broadband services – particularly to consumers impacted by the withdrawal of copper-based services as New Zealand transitions to fibre and other more modern technologies.

We used our retail service quality powers to issue guidelines setting out our expectations of retailers dealing with consumers coming off copper and for advertising broadband services more generally.

Our 2021 Marketing alternative telecommunications services during the transition away from copper[7] guidelines were designed to deliver three key benefits for consumers:

- Getting sufficient notice of any change to their copper service so they are not rushed into making decisions about a replacement service and getting information about the full range of alternative services available to them.
- Speed indications in advertising that must be based on independent testing under the Measuring Broadband New Zealand programme (rather than 'up to' or theoretical maximum speeds).
- The right to walk away from their broadband plan or provider without penalty when a service materially fails to deliver what was advertised.

These measures were designed to ensure consumers get the information they need to make informed choices about the best broadband service for them, backed up by an exit right if the service does not live up to expectations.

The Telecommunications Forum has converted our marketing guidelines into two binding industry codes: The Copper and Public Switched Telephone Network (PSTN) Transition Code; and the Broadband Marketing Code.

We will keep industry compliance with the requirements of the Marketing Guidelines, and related industry codes, under review to ensure they are achieving their purpose for consumers.

Indicator

Strategic objective: Consumers are confident market participants

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

An annual telecommunications consumer survey was not undertaken in 2021/22 so we are unable to assess progress from the 2020/21 result.

In 2020/21, we ran a joint telecommunications survey with Consumer New Zealand for the first time. The overall satisfaction result from the survey is used as a proxy for confidence in the telecommunications sector, including whether consumers are confident that services are being provided at an appropriate price and quality. Results from this survey combined satisfaction across mobile and fixed-line services, rather than separately, so are not directly comparable with previous surveys. Previous results are available in our 2020 Annual Report.

7. https://comcom.govt.nz/__data/assets/pdf_file/0032/269663/Marketing-alternative-telecommunications-services-during-the-transition-away-from-copper-guidelines-8-November-2021.pdf

Improving understanding of telecommunications markets and services

As part of our regulatory role, we actively monitor telecommunications markets and produce reports on how they are performing and developing.

We continue to work on improving our understanding of the telecommunications sector through monitoring – making information available that supports consumer choice and confidence regarding their telecommunications services.

Since it was launched in 2018, our broadband monitoring programme, delivered by independent broadband monitor SamKnows, has given consumers important information on the performance of different technologies, providers and plans to help inform their purchasing decisions. Providing accessible information about broadband performance also encourages telecommunications providers to compete on performance and not just price.

In 2021/22, we had another successful year with our Measuring Broadband New Zealand programme with four reports published on the comparative performance of different technologies, services and service providers. We also published a joint report (along with the ACCC) comparing select fibre and fixed wireless plans in New Zealand with comparable plans in Australia. Overall, the joint report showed that the performance of New Zealand ultra-fast broadband compares well to Australia's National Broadband Network.

Retail payment system

In 2021/22, the Commission also established a new team to carry out new responsibilities under the Retail Payment System Act 2022 (RPS Act) that came into force in May 2022.

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

The Commission is responsible for promoting competition and efficiency within the retail payment system by regulating designated retail payment networks and monitoring the retail payment system.

The RPS Act gives the Commission power to issue merchant surcharging standards for any network to require consumer surcharges for payment services such as credit cards or contactless payments to be appropriate.

Mastercard and Visa credit and debit card networks are our initial focus as they are designated by the RPS Act. The Commission can require greater transparency, determine how prices can be set or expressed, and allow other participants to access aspects of the network. The RPS Act sets pricing limits on the interchange fees charged by these two networks and the Commission became responsible for monitoring and enforcing these pricing limits when they came into force in November 2022.

Fuel

The Commission has a new role in regulating the fuel industry under the Fuel Industry Act, which promotes competition in engine fuel markets for the long-term benefit of fuel users. It establishes a wholesale pricing regime, rules governing wholesale contracts, an information disclosure regime and requirements for the display of price information at retail fuel sites. The Government introduced the Fuel Industry Act following the Commission's 2019 fuel market study, which found a number of shortcomings in the competitiveness of fuel markets in New Zealand.

We have built a team to administer the new regime. In July 2021, we released an open letter to the fuel industry outlining our role and the expectations on fuel businesses ahead of the first components of the regulatory regime coming into effect in August 2021 (involving terminal gate pricing, wholesale contract rules and dispute resolution). Additional rules (involving retail fuel price boards and information disclosure requirements) came into effect from February 2022. These are aimed at making fuel pricing more transparent for motorists and to help the Commission monitor and report on how competition in fuel markets is evolving.

In May 2022, we launched the Fuel Information Disclosure Portal to allow fuel industry participants to securely submit their disclosures. This will help us monitor and be able to report on the competitive performance of fuel markets. While outside this annual reporting period, we released our first monitoring report in November 2022.

Further obligations requiring wholesale suppliers to use transparent contract terms and pricing methods came into effect from 11 August 2022. These requirements are intended to provide more opportunities for fuel retailers to shop around for better wholesale prices.

Dairy

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

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

In September 2021, we published a report on Fonterra's calculation of the base milk price it paid farmers in the 2020/21 dairy season. We concluded that Fonterra's calculation is likely to be consistent with both the efficiency and contestability purposes of the DIRA. The key areas of focus in this year's review were two components of the cost of capital (the asset beta and specific risk premium), the appropriateness of provisions for asset stranding and the inclusion of instantised milk powder as a reference product in the calculation of the base milk price.

In December 2021, we published our report on Fonterra's Milk Price Manual for the 2021/22 dairy season. We concluded that Fonterra's 2021/22 Milk Price Manual is consistent with both the efficiency and contestability dimensions of the purpose of the base milk price monitoring regime with the exception of the rule for the asset beta. The 2021/22 review focused on how recent amendments to the DIRA, which came into force on 1 June 2021, reduced Fonterra's discretion in estimating the asset beta. Fonterra has since addressed the Commission's concerns through the 2021/22 calculation review process and has amended the rule for the 2022/23 dairy season.

We have been working with the Ministry for Primary Industries to support the development of the Dairy Industry Restructuring (Fonterra Capital Restructuring) Amendment Bill. Amongst other changes, the Bill strengthens the Commerce Commission's oversight of the base milk price-setting regime. The Bill was introduced to Parliament on 13 September 2022.

Tackling harm from unfair trade practices and irresponsible lending and unlawful consumer credit practices

Te whakatau i ngā raru mai i te tauhokohoko huhunu

New Zealanders are better off when they are confident market participants, whether they are buying or selling goods and services, buying goods on credit or borrowing money under consumer credit contracts.

The Commission has responsibilities under fair trading and consumer credit laws that help ensure New Zealanders are confident market participants. These include:

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

Changes made to the Commission's structure in 2021 resulted in two separate branches to lead the fair trading and credit work programmes alongside a third competition branch, where previously one branch had delivered work in all three areas. In 2021/22, both the Fair Trading Act and the Credit Contracts and Consumer Finance Act 2003 underwent significant amendment, including the introduction of additional protections for consumers and small businesses. Our investigation and enforcement work was affected by restrictions imposed in response to COVID-19 to the extent that businesses requested extensions of time to produce information relevant to investigations and face-to-face interactions such as interviews were delayed. In addition, a significant number of our staff working in these areas reside in Auckland, which was subject to repeated and extended Alert Level 3 and 4 restrictions.

Fair trading

Our fair trading and product safety work supports consumer decision making and well-functioning markets by helping to make sure consumers are not misled when buying goods and services and that consumers are protected from the harm associated with breaches of product safety and consumer information standards. We use consumer complaints, stakeholder feedback and insights obtained through our enforcement work and from consumer protection agencies internationally to help us prioritise our work.

In the 2021/22 year, we:

- completed 193 fair trading investigations and 54 investigations into product safety matters
- filed four charges in the courts and one proceeding
- concluded eight litigation matters resulting in total fines of more than $1.5 million
- warned 11 businesses, resulting in a range of changes to conduct, including amended representations on websites and social media channels and refunds to affected consumers.

Our investigation and enforcement work can span multiple financial years – 17 matters are currently progressing through the courts with outcomes expected in late 2022, 2023 and 2024.

Evolving fair trading laws

Consumer protection laws continue to evolve as markets change and we continue to contribute advice in our areas of expertise to the development of new laws as well as acquiring new responsibilities for their administration and enforcement.

In August 2021, a number of new Fair Trading Act provisions took effect, strengthening protections for consumers and businesses, with particular likely impact for small businesses. Unconscionable conduct is now prohibited by the Act. This is business activity that substantially departs from Aotearoa New Zealand's generally accepted or expected standards of business conduct – for example, commercial conduct that goes against good conscience.

Businesses are also now protected from unfair terms in standard-form small trade contracts – these are 'take it or leave it' contracts such as many electricity or phone service agreements. Small trade standard-form commercial agreements such as product supply agreements will also be subject to the prohibition. Other changes to the Fair Trading Act also enable consumers to stop salespeople from coming to their homes to sell goods or services without being invited. We provided input into development of these amendments and issued guidance and engaged with businesses and others about what these changes mean for them.

New disclosure requirements for businesses supplying, offering or advertising for supply certain fresh and frozen food such as fruit, vegetables and meat were also introduced. Mandatory country of origin information will let consumers know where certain food comes from and help them make informed decisions when they are buying these products.

The Sunscreen (Product Safety Standard) Act 2022 introduced specification requirements for testing and labelling sunscreen products. The Commission will enforce this Act as a product safety standard from September 2022.

Broadening our networks

In 2021/22, we focused on developing our stakeholder engagement practices to drive improved compliance and will continue to focus on this in 2022/23. We prioritised engagement with other consumer protection and regulatory agencies in Aotearoa New Zealand and overseas as well as industry bodies and consumer groups. These relationships contribute to an improved understanding of fair trading issues impacting consumers and agency priorities on a domestic and international basis. Our relationship with the ACCC is of particular importance, as is our active membership of the International Consumer Protection and Enforcement Network, where we contribute to working groups growing international best practice.

We have engaged with a number of industry groups, including the Marketing Association, Sustainable Business Network, Cosmetics New Zealand, Water New Zealand and Funeral Directors Association of New Zealand. These engagements enable us to share compliance information and collect information that assists us to better understand potential compliance issues in relevant sectors.

Our fair trading work during 2021/22 focused on five priority themes discussed below.

Retail pricing and promotional practices

Retail pricing and promotions impact all New Zealanders every day, and we continue to prioritise this work. Representations about price and promotions must be clear and accurate, and businesses must not mislead consumers about the size or availability of any discount or special price and any exclusions or conditions relating to promotions.

Following the grocery market study, we engaged with major supermarket retailers about pricing and promotional practices, including complaints from consumers alleging that promotional and shelf prices differ from the price that they are then charged at the checkout. This work continues into 2022/23.

In our long-running prosecution of Bunnings, we alleged that misleading representations as to price were made between 2014 and 2016 when Bunnings represented that it offered the lowest prices in the market. The case was dismissed by the Auckland District Court in September 2021. However, the Court provided important clarification of the law relating to the use of broad pricing claims such as ‘lowest prices’. Although the Commission was unsuccessful in obtaining a conviction for breach of the Fair Trading Act, we used the Court’s findings to remind businesses of their obligations under the Act. We emphasised that businesses should have good systems in place to support any comparative price representations and encouraged consumers to shop around and to take up price-matching guarantees where possible.

Our case against Swiss-based online ticket reseller Viagogo AG for mispresenting the price and availability of tickets and ticket ‘guarantees’ and its status as an ‘official’ seller of tickets also continued this year, with work progressing towards a substantive hearing in early 2023. The case has spanned multiple financial years as it involves conduct by an offshore business affecting New Zealand consumers.

We filed charges against Australian retailer Strandbags Pty Limited this year. Strandbags was convicted in November 2022 for misleading consumers with its discounting and sales practices online and in store. A fine of $780,000 was imposed by the Auckland District Court. Price comparisons give consumers helpful information and can promote competition among retailers but only when they are clear, accurate and unambiguous and the ‘bargains’ offered to consumers are genuine.

Case study

Misleading online sales practices

Innovation and growth in online retail is exposing New Zealanders to new methods of marketing and selling goods and services.

While new sales and marketing methods can improve convenience and choice for consumers, in some cases, consumers can find it harder to verify representations made online about price, stock availability and other product characteristics, and businesses that have put good systems in place to make accurate representations online are at a disadvantage when competitors do not play by the same rules.

In the 2021/22 year, we took enforcement action under the Fair Trading Act against two online businesses relating to promotional claims made on their websites.

1-Day (which now trades under TheMarket) was fined $840,000 in the District Court for promoting its daily deals ‘for today only’ despite often rolling them over consecutive days. The online store had also been programmed to progressively reduce the quantity of stock displayed as available throughout the day so that consumers often were not seeing accurate information about the stock available or how long the offer would be available to them. By representing that both the sales offer period and quantity of stock were limited, 1-Day’s conduct may have compelled consumers to make purchases they may not have otherwise made and may have deterred them from taking their time to make decisions about buying products or from shopping around before buying. 1-Day ceased its use of a countdown timer and stock indicator and no longer offers daily deals.

We also warned online gift-box retailer Occasion Box, which used sales pop-up boxes that generated pop-up notifications of fake purchases by fictional consumers. We considered that the claims by Occasion Box likely created a false sense of demand and popularity of the goods to website visitors.

We have published guidance for businesses that provides some strategies for avoiding misleading online sales practices and marketing techniques that may harm consumers or competition. The Commission has also actively been engaging with businesses in the sector about their obligations, drawing attention to the recent enforcement outcomes and this guidance. Through these activities, we seek to contribute to business and consumer confidence in online retail markets.

Product safety and consumer information standards

We continue to prioritise product safety work because of the potentially significant consequence of unsafe products, especially for children.

Given the importance of product safety, in 2021, we established a dedicated Product Safety and Consumer Information team. The creation of the team recognises the enduring priority of the Commission's work in this area along with the expanded regulatory scope of our work. The team's work includes administering new standards relating to sunscreen and country of origin labelling for some food products.

This year, we engaged with MBIE on a product safety review and with policy officials in relation to legislative reform. We liaised with the ACCC when working on risk assessment and prioritisation for our product safety work.

We continued investigation and enforcement work relating to the safety of toys, children's nightwear and chainsaws despite disruption to our programme of store inspections caused by restrictions that formed part of the COVID-19 response. We warned and accepted enforceable undertakings from Evo Bicycles in relation to a breach of the standards applying to children's bicycles. Other investigation and compliance work is progressing in areas of high risk, including small high-powered magnets.

Our investigatory and compliance work is proactive

Many businesses are aware of their obligations under the standards and ensure they comply before goods are offered for sale. However, we proactively visit and inspect retail stores to find the small number of retailers that do not have compliance programmes in place and/or are selling non-compliant children's toys and nightwear in particular.

This year, we carried out unannounced visits to retailers in the Hawke's Bay and East Coast areas. We engaged with retailers to check their understanding of their obligations and support compliance. As part of this visit to 37 retailers, we identified 24 potentially non-compliant or unsafe products that have been laboratory tested and are subject to ongoing investigation.

Case study

Taking action and ensuring the accuracy of product claims

The Commission enforces seven product safety standards relating to goods such as children's toys, sunscreen and pedal bicycles. We also enforce six consumer information standards in areas such as care labelling of clothes, water efficiency and used motor vehicles. Over the 2021/22 year, we undertook surveillance, compliance and enforcement action in relation to a range of these standards.

In December 2021, we released guidance in relation to the newest consumer information standard relating to origin of food, which took effect for fresh produce and meat in February 2022. Foods covered by the standard will need to state the country of origin on the packaging or on a sign nearby. We consulted businesses and consumer advocates to incorporate their perspectives into guidance we issued relating to compliance with the new standard.

We also took action against 1st Mart Limited, which imported toys that were at risk of creating a choking or suffocation risk for small children. The non-compliance with the product safety standard for children's toys was detected as part of a routine programme of retail inspections and resulted in a fine of $55,250 to 1st Mart Limited.

Ego Pharmaceuticals entered a guilty plea relating to unsubstantiated representations in relation to its sun protection factor (SPF) 50+ sunscreen products. While it had reasonable grounds for SPF claims when the products were first released in New Zealand, the accumulation of test results meant that, from February 2019, Ego ceased to have reasonable grounds to make those claims. Ego's guilty plea related to making unsubstantiated representations in breach of the Fair Trading Act.

From 8 September 2022, all sunscreen products must comply with product safety standards that set out procedures for determining the performance of sunscreen products, their SPF classification, testing methods and labelling requirements.

Our product safety work helps to provide consumers with greater confidence that products subject to product safety standards are safe and supports consumer decision making by making it easier for consumers to understand and compare different product attributes when products are subject to consumer information standards.

High harm and high public interest

This year, we maintained our focus on pyramid schemes because they have the potential to cause significant harm to individuals and communities. Using intelligence from the community and from complaints, we contacted at least 40 alleged promoters of illegal pyramid schemes during the year to discuss their activities and to provide information about the illegal nature of pyramid schemes. We prioritised early intervention to prevent ongoing harm. The 6K pyramid scheme is before the courts, and we have several investigations under way into similar conduct.

Other conduct of particular significance to our work can be difficult for consumers to detect or can impact a large number of consumers for a large aggregate effect. Investigations into misleading conduct by Spark New Zealand and Autoworld were concluded with warnings. For six years, Spark New Zealand had charged more than 400 customers for a wire maintenance service that they did not need or could not use. Spark provided enforceable undertakings to refund all affected customers. We continue to consider whether this unlawful practice is widespread among utilities providers.

Autoworld was warned for not disclosing or incorrectly describing the damage history of some cars imported from Australia. Cars represent a significant cost to consumers and are often essential to consumers' livelihoods.

Credence claims

Often consumers cannot easily verify claims about product characteristics or performance for themselves.

Investigations into the efficacy of surface coatings and sanitisers that were made at the height of the COVID-19 pandemic are ongoing. We warned Nano-Care New Zealand Limited for unsubstantiated representations about its Liquid Guard surface product and textile spray. Nano-Care ceased making the relevant representations about Liquid Guard on its website and social media channels.

We issued warnings after investigations into environmental and sustainability claims by Glopac and Chilltainers. The warnings led to a change in their marketing, packaging and information approach. Representations as to recycling were made on hot drink cups (Glopac) and cardboard food packaging (Chilltainers) but the products could not be recycled in New Zealand in either situation.

A successful prosecution of the New Zealand Health Food Company for misleading origin claims relating to royal jelly supplements highlighted that businesses must consider the overall impression that consumers are likely to form from the phrases and images used in marketing, including brand names. In this case, the combination of phrases and images to market the products gave the impression they were from New Zealand when the key ingredient came from China.

Rights and obligations – general compliance and enforcement action

Our work relating to everyday consumer rights and obligations focused this year on unfair contract terms, extended warranties, billing errors, unsolicited services and misleading representations about stock availability. This work aimed to improve awareness and understanding by businesses of their legal obligations to contract fairly with consumers and not to mislead them about their contractual rights.

In 2021/22, we successfully prosecuted Brand Developers Limited for selling non-compliant extended warranties and brought charges, still to be dealt with by the court, against Mercury Energy for making false and/or misleading representations to some residential energy customers that they were required to pay an early termination fee when they were not. An investigation into Greenfingers Garden Bags and their associated companies for widespread unsolicited delivery of garden bags resulted in a warning being issued.

We also undertook a compliance project involving 17 businesses, following up stock availability and delivery delay complaints received during the 2021 lockdown periods. We opened an investigation into Noel Leeming, and this is ongoing.

Increasingly, we consider population and societal trends in our compliance research, and we began research this year into compliance in the retirement villages and the funeral sectors. This work is ongoing.

The indicators in consumer and business confidence are measured through a biennial survey. Since the survey was last held in 2020/21, there are no new results for this indicator in 2021/22.

Indicator

Strategic objective: Consumer and business confidence

	Target	2021/22	2020/21	2019/20	2018/19
Consumers are confident that competition and consumer laws are being appropriately enforced	Maintain or increase confidence	**No new result**	37%	No new result	30%

MBIE will conduct the next New Zealand Consumer Survey in the 2023 financial year.

Other than matters discussed in this Annual Report, we are not aware of any other significant events that will result in a material difference in survey results since the last survey in 2021. The Commission continues to work towards contributing to consumer confidence through a range of initiatives described in this Annual Report.

Source: New Zealand Consumer Survey 2020[8]

8. https://www.mbie.govt.nz/dmsdocument/14642-nz-consumer-survey-2020-report-pdf

Consumer finance that is safe, transparent and fair

Our work under the Credit Contracts and Consumer Finance Act (CCCF Act) has helped protect people when they borrow money or buy goods on credit, including through home loans, credit cards, personal loans, high-cost loans and purchases from mobile traders on instalment payment.

Certification of lenders

From 1 October 2021, lenders providing consumer credit and mobile traders selling on credit (collectively referred to as lenders) were required to be certified by the Commission unless they were exempt from certification.

The purpose of the certification regime is to provide New Zealand consumers with confidence that the individuals involved in providing consumer lending or mobile trading services satisfy a high standard of personal and professional integrity. In order to grant certification, the Commission must be satisfied that all directors and senior managers of lenders are 'fit and proper' to perform their role.

In preparation for the certification function coming into effect, the Commission established an assessment and decision-making framework and developed systems and processes to provide the certification team with the tools required to certify lenders. This work enabled the Commission to commence assessing certification applications from 1 June 2021.

As at 30 June 2022, just over 300 lenders have been certified and 86 have been exempted from certification. Approximately 900 individual director and senior manager assessments have been completed.

Consumer and business confidence indicators

The indicators in consumer and business confidence are measured through a biennial survey. Since the survey was last held in 2020/21, there are no new results for this indicator in 2021/22.

Indicator

Strategic objective: Consumer and business confidence

	Target	2021/22	2020/21	2019/20	2018/19
Consumers are confident when accessing consumer credit[9]	Maintain or increase confidence	**No new result**	80%	No new result	83%

MBIE will conduct the next New Zealand Consumer Survey in the 2023 financial year.

Other than matters discussed in this Annual Report, we are not aware of any other significant events that will result in a material difference in survey results since the last survey in 2021. The Commission continues to work towards contributing to consumer confidence through a range of initiatives described in this Annual Report.

Source: New Zealand Consumer Survey 2020[10]

9. This performance measure was incorrectly named in the current Statement of Intent as: *Regulated suppliers provide strong and sustainable infrastructure that benefits New Zealanders*. The target and prior year reporting in the 2020 Annual Report accurately reflects the measure.

10. https://www.mbie.govt.nz/dmsdocument/14642-nz-consumer-survey-2020-report-pdf

Education, guidance and engagement

In 2021/22, we undertook an extensive programme of engagement and education to support the significant changes to the CCCF Act that took effect on 1 December 2021. These included changes to obligations relating to the assessment of the suitability and affordability of loans for borrowers, disclosure to borrowers of key information relating to loans, record keeping and advertising obligations and a new due diligence obligation for directors and senior managers:

- We held three online education seminars attended by 489 people and released updated guidance and materials to assist lenders with their new compliance obligations.
- We carried out a series of online seminars for financial mentors to assist them to understand the changes as well as publishing a significantly revised and more comprehensive 'red flags' document that is designed to empower financial mentors to better identify unlawful conduct and assist their clients to resolve problems.

Along with other Council of Financial Regulators agencies the Financial Markets Authority and Reserve Bank, the Commission supported the MBIE-led review into the implementation of the credit law changes that came into force in December 2021. We engaged with policy officials in relation to the design of additional changes to the Credit Contracts and Consumer Finance Regulations and Responsible Lending Code, which were made following this review.

We have also continued with or initiated regular stakeholder engagement with lenders, including banks offering consumer loans and larger finance companies, and with the New Zealand Bankers' Association and the Financial Services Federation. Through this engagement, we better understand industry compliance challenges, identify gaps in the education and guidance we provide and inform lenders about our CCCF Act priorities and focus areas.

Building knowledge and monitoring

In November 2021, the Commission published a report following our review of motor vehicle financing and add-ons. The purpose of the review was to better understand the roles and responsibilities of industry participants during the motor vehicle sales and lending process and to identify business practices that have the potential to cause harm to consumers. The review made a number of observations about consumer experience of these products and their providers as well as the vehicle finance industry more broadly.

Following the review, we issued letters to and met with a number of lenders that participated in the review to assist them with their compliance obligations and engaged with consumer groups and government agencies to discuss our observations.

During 2020/21, the Commission undertook two monitoring projects to understand the level of compliance of high-cost lenders and mobile traders with the CCCF Act, including new rules applying to lenders providing high-cost credit and mobile traders, which came into effect in May and June 2020. Following the monitoring projects, in 2021/22, we conducted 55 mobile trader inspections, opened investigations into seven high-cost lenders and 15 mobile traders and assessed potential breaches of relevant obligations.

During the year, we completed five of the high-cost credit investigations, issued warnings to three lenders and sent letters to two lenders to assist them with their compliance obligations. Two investigations remained ongoing at the end of the financial year. A number of the lenders providing high-cost loans exited the industry during the year, and we understand that, by 30 June 2022, only one provider of high-cost consumer credit contracts remained.

In 2021/22, we also completed 11 investigations into mobile traders. We issued warnings to two traders and sent letters to eight other traders to assist them with their compliance obligations. Four investigations remained ongoing at the end of the financial year.

Enforcement under the Credit Contracts and Consumer Finance Act

In 2021/22, we completed investigations and resolved litigation where lenders had failed to comply with the CCCF Act. As a result, more than $9 million is being returned to approximately 46,700 consumers. We continued to liaise with a number of lenders during the year in relation to errors identified by them when reviewing their internal compliance systems and processes. During the year, we also completed investigations into three retail banks following errors they self-reported to the Commission relating to failure to appropriately assess affordability when increasing credit card limits, failure to provide customers fee waivers as represented to them, incorrect interest rates applied to loans and disclosure errors.

The Commission also entered into two settlement agreements with finance companies relating to unreasonable loan establishment, administration and default fees they were charging. Our settlement with Real Finance Limited resolved legal proceedings and resulted in around to $1.36 million being paid to 515 borrowers. Under the settlement with Mainland Finance Limited, the motor vehicle financier agreed to return approximately $1.1 million of overcharged fees to borrowers.

Measuring our outputs
Te ine i ngā whakamaunga atu

Measuring our outputs
Te ine i ngā whakamaunga atu

This section reports on our performance against the measures and financial information in our Statement of Performance Expectations 2021/22 and the Estimates of Appropriations 2021/22.[11]

The following is a summary of our performance in 2021/22:

6/6 Competition[12] measures achieved

6/7 Consumer[13] measures achieved

22/24 Economic regulation[14] measures achieved

1/1 Major litigation measures achieved

11. The Commission's Estimates of Appropriations are included in *Vote Business, Science and Innovation*, which is administered by our monitoring agency MBIE.

12. Competition includes market studies (also known as competition studies).

13. Consumer includes fair trading and credit.

14. Economic regulation includes telecommunications, fibre, fuel, electricity, airports, input methodologies, dairy, gas and Part 4 inquiries.

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

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

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

Competition
Whakataetae

This output class is intended to achieve the prevention, identification, investigation and remediation of market behaviour that is anti-competitive.

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
Percentage of merger clearance decisions made within 40 working days when no statement of issues is published	**86%**	75%	75%	86%

There were 21 clearance applications decided compared to eight in 2020/21 and nine in 2019/20. In 2021/22, seven mergers were cleared without a statement of issues being published (including two cleared subject to upfront divestment remedies). One that was cleared without a statement of issues was outside the 40 working days. Of the remaining 14, seven were withdrawn, one was cleared with remedies and six were fully cleared.

Competition continued
Whakataetae

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
Average number of working days from date of decision to date of publication of reasons for declined merger clearance applications	**There were no declined clearances**	10 days	There were no declined clearances	There were no declined clearances
There were no merger clearances applications declined. However, we declined our first collaborative activity clearance and published our reasons in 10 working days.				
Number of Commerce Act 1986 matters completed	**17**	5–20	8	12
There were 17 Commerce Act matters completed. This included 13 cartel matters, one section 47 merger matter and three competition matters.				
Percentage of competition investigations decided within 18 months of the investigation being opened	**83%**	75%	78%	91%
There were 18 investigations decided. This included 12 cartel investigations, five competition investigations and one section 47 merger investigation.				
Percentage of investigations involving a court action, statutory undertaking or negotiated settlement response meeting our internal process quality standards	**100%**	100%	100%	100%

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

	2021/22		2020/21
	Actual $000	Budget $000	Actual $000
Operating revenue			
Revenue – Crown	13,289	13,289	10,493
Other revenue	295	175	185
Total operating revenue	**13,584**	**13,464**	**10,678**
Total operating expense	**12,316**	**13,464**	**10,295**
SURPLUS/(DEFICIT)	**1,268**	**-**	**383**

Expenditure in the Competition output class was less than budgeted because of an underspend in external consultancy costs. This was largely because activity in the enforcement workstream was lower than forecast.

Market studies (also known as competition studies)

Tirohanga mākete

This output class is intended to achieve improved market performance and outcomes by providing for the Commission to carry out detailed research into a particular market or markets where there are concerns that the market could be functioning suboptimally.

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
All competition studies undertaken are completed within agreed timeframes	**Achieved**	Achieved	Achieved	Achieved

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

	2021/22		2020/21
	Actual $000	Budget $000	Actual $000
Operating revenue			
Revenue – Crown	2,686	3,330	2,580
Other revenue	31	17	26
Total operating revenue	**2,717**	**3,347**	**2,606**
Total operating expense	**2,717**	**3,347**	**2,606**
SURPLUS/(DEFICIT)	**-**	**-**	**-**

Market studies output class expenditure was less than budgeted as external expenditure on the building supplies market studies was incurred later than expected.

Consumer (including fair trading and credit)

Kiritaki

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

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
Number of Credit Contracts and Consumer Finance Act 2003 matters completed	**64**	At least 50	54	58
Number of product safety and information standards matters completed	**54**	At least 75	109	103
The number of product safety and information standards matters completed did not meet the target in 2021/22 because ongoing COVID-19 lockdown requirements meant that the Commission was unable to visit as many businesses as it could have if the Auckland lockdowns were not in place.				
Number of Fair Trading Act 1986 matters completed	**192**	At least 175	316	344
Percentage of Fair Trading investigations decided within 12 months of the investigation being opened	**95%**	95%	97%	97%
Percentage of credit investigations decided within 18 months of the investigation being opened	**97%**	95%	98%	98%
Percentage of investigations involving a court action, statutory undertaking or negotiated settlement response meeting our internal process quality standards	**100%**	100%	100%	100%
Fit and Proper Person applications processes under the Credit Contracts and Consumer Finance Act 2003 within 30 working days where all information has been received and no conditions have been imposed	**77%**	75%	New measure	-

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

	2021/22		2020/21
	Actual $000	Budget $000	Actual $000
Operating revenue			
Revenue – Crown	19,084	19,084	18,484
Other revenue	1,430	1,970	193
Total operating revenue	**20,514**	**21,054**	**18,677**
Total operating expense	**19,167**	**20,648**	**18,362**
SURPLUS/(DEFICIT)	**1,347**	**406**	**315**

Expenditure in the Consumer output class was less than budgeted because of an underspend in internal resourcing costs. This was largely because activity in the enforcement workstream was lower than expected.

Appropriation funding

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

	Estimates $000	Supplementary Estimates $000	Actual $000	Difference vs Supplementary Estimates $000
Vote Business, Science and Innovation: Enforcement of General Market Regulation MCA				
Enforcement of Competition Regulation Revenue – Crown	12,039	12,039	12,039	-
Enforcement of Consumer Regulation Revenue – Crown	19,084	19,084	19,084	-
Retail Payment Systems Administration and Enforcement Revenue – Crown	-	1,250	1,250	-
Total	**31,123**	**32,373**	**32,373**	
Vote Business, Science and Innovation: Competition Studies				
Revenue – Crown	2,580	3,113	2,686	(427)

Economic regulation
Ngā ture ohaoha

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

- Telecommunications Act 2001
- Commerce Act 1986 (Part 4):
  - Electricity lines services
  - Gas pipeline services
  - Specified airport services
  - Input methodologies
- Fuel Industry Act 2020
- Dairy Industry Restructuring Act 2001.

Telecommunications (excluding fibre networks)

Torotoro waea

This output class is intended to achieve the promotion of competition in the telecommunication market for the long-term benefit of end-users.

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	**4**	At least 4	5	9
Average time to complete telecommunications determinations	**2 months**	6 months	3 months	2.5 months
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	**9**	At least 3	9	6
The target for the number of telecommunications reports completed was exceeded due to additional Measuring Broadband New Zealand (MBNZ) reports, a joint MBNZ report with ACCC and guidelines.				
Quality assurance processes for determinations and code amendments are in place and applied	**100%**	100%	100%	100%

Our telecommunication work is funded through the *Vote Business, Science and Innovation: Enforcement of Telecommunications Sector Regulation*.

	2021/22		2020/21
	Actual $000	Budget $000	Actual $000
Operating revenue			
Revenue – Crown	7,888	9,368	5,403
Other revenue	133	49	58
Total operating revenue	**8,021**	**9,417**	**5,461**
Total operating expense	**8,021**	**9,417**	**5,461**
SURPLUS/(DEFICIT)	**-**	**-**	**-**

Expenditure in the Telecommunications output class was less than budgeted as a result of lower than forecast internal resourcing and external consultancy costs. This was primarily driven by less activity across the determinations and public reports and advice workstreams.

Fibre

Kaka kōata

This output class is intended to achieve the regulation of wholesale fibre fixed-line broadband services and the work in relation to broadcasting transmission service providers.

Output measure	2021/22 Actual	2021/22 Target	2020/21 Actual	2019/20 Actual
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	**7**	At least 4	2	0
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	**1**	At least 1	New measure	-
Percentage of Part 6 of the Telecommunications Act 2001 determinations completed by statutory deadlines	**100%**	100%	New measure	-
Quality assurance processes for determinations and code amendments are in place and applied	**100%**	100%	100%	Not achieved

Our fibre work is funded through the multi-year appropriation *Vote Business, Science and Innovation: Enforcement of Telecommunications Sector Fibre and Broadcasting Transmission Service Regulation 2018–2022*.

	2021/22 Actual $000	2021/22 Budget $000	2020/21 Actual $000
Operating revenue			
Revenue – Crown	5,264	5,724	4,790
Other revenue	72	32	60
Total operating revenue	**5,336**	**5,756**	**4,850**
Total operating expense	**5,336**	**5,756**	**4,850**
SURPLUS/(DEFICIT)	**-**	**-**	**-**

Expenditure in the Fibre output class was less than budgeted as a result of lower than forecast internal resourcing and external consultancy costs. This was primarily driven by less activity across the compliance and enforcement and reports and advice workstreams, partially offset by increased activity in the determinations workstream.

Fuel

Hinu

This output class is intended to achieve the implementation of the liquid fuels monitoring and enforcement regime.

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
Number of Fuel Industry Act 2020 reports completed	**1**	At least 1	New measure	-

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

	2021/22		2020/21
	Actual $000	Budget $000	Actual $000
Operating revenue			
Revenue – Crown	3,330	3,830	484
Other revenue	34	17	7
Total operating revenue	**3,364**	**3,847**	**491**
Total operating expense	**2,908**	**3,847**	**491**
SURPLUS/(DEFICIT)	**456**	**-**	**-**

Expenditure in the Fuel output class was less than budgeted primarily due to lower than forecast external consultancy costs. This was as a result of less activity in the compliance and enforcement workstream than anticipated.

Electricity lines services

Ratonga waea hiko

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

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	**6**	At least 3	8	19
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	**There were no determinations with statutory deadlines**	100%	100%	100%
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	**4**	At least 5	6	4
The target for the number of electricity lines services reports completed was not met because reports intended to be published in June 2022 were delayed until July 2022 due to staff resourcing issues including COVID-19. There will be additional resource and the capability to deliver on our sector performance information reports in 2022/23.				
Quality assurance processes for determinations and code amendments are in place and applied	**100%**	100%	100%	100%

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

	2021/22		2020/21
	Actual $000	Budget $000	Actual $000
Operating revenue			
Revenue – Crown	6,135	8,541	5,792
Other revenue	91	44	1,505
Total operating revenue	**6,226**	**8,585**	**7,297**
Total operating expense	**6,226**	**8,585**	**7,297**
SURPLUS/(DEFICIT)	**-**	**-**	**-**

Expenditure in the Electricity output class was less than budgeted due to activity in the public reports and advice workstream being lower than anticipated and reduced internal resourcing and external consultancy costs.

Gas pipeline services

Ratonga kapuni

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

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	**11**	At least 4	2	2
The target for the number of gas pipeline services reports completed was exceeded due to additional determinations relating to the gas default price-quality path (DPP) reset. This consisted of two additional input methodology determinations, and the tranche of gas DPP determinations involved six separate determinations.				
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	**100%**	100%	There were no determinations with statutory deadlines	There were no determinations with statutory deadlines
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	**3**	At least 3	3	2
Quality assurance processes for determinations and code amendments are in place and applied	**100%**	100%	100%	100%

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

	2021/22		2020/21
	Actual $000	Budget $000	Actual $000
Operating revenue			
Revenue – Crown	3,660	3,717	1,081
Other revenue	39	20	16
Total operating revenue	**3,699**	**3,737**	**1,097**
Total operating expense	**3,699**	**3,737**	**1,097**
SURPLUS/(DEFICIT)	-	-	-

Expenditure in the Gas output class was less than budgeted due to reduced spending on internal resources. This was primarily driven by reduced activity in the public reports and advice and compliance and enforcement workstreams, partially offset by increased activity in the determinations workstream.

Specified airport services

Ratonga tauranga rererangi

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

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	**2**	At least 2	2	2
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	**There were no determina-tions with statutory deadlines**	**100%**	There were no determina-tions with statutory deadlines	There were no determina-tions with statutory deadlines
Number of reports com-pleted (monitoring reports, summary and analysis reports and information disclosure reports)	**1**	**At least 2**	0	0
The final report on Wellington Airport's price-setting event was delayed until August 2022. This was due to a longer than expected consultation period to allow for the impact of COVID-19 and the impact of COVID-19 on Commission staff involved in the preparation of the report.				
Quality assurance pro-cesses for determinations and code amendments are in place and applied	100%	**100%**	100%	100%

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

	2021/22		2020/21
	Actual $000	Budget $000	Actual $000
Operating revenue			
Revenue – Crown	366	600	341
Other revenue	6	2	5
Total operating revenue	**372**	**602**	**346**
Total operating expense	**372**	**602**	**346**
SURPLUS/(DEFICIT)	**-**	**-**	**-**

Expenditure in the Airports output class was less than budgeted due to reduced spending on external consultants primarily driven by lower than expected activity in the public reports and advice workstream.

Input methodologies

Huarahi kōkuhunga

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

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
Input methodologies under Part 4 of the Commerce Act 1986 are reviewed by December 2023	**On track**	Achieved	New measure	-

This measure is on track to be achieved by December 2023.

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

	2021/22		2020/21
	Actual $000	Budget $000	Actual $000
Operating revenue			
Revenue – Crown	417	500	-
Other revenue	6	3	-
Total operating revenue	**423**	**503**	**-**
Total operating expense	**423**	**503**	**-**
SURPLUS/(DEFICIT)	**-**	**-**	**-**

Expenditure in the Input Methodologies output class was less than budgeted due to reduced spending on internal resources and external consultants because activity across the determinations workstream was less than anticipated.

Dairy

Mahi miraka kau

This output class is intended to achieve incentives for Fonterra to operate efficiently while providing for contestability in the market for the purchase of milk from farmers.

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

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

	2021/22		2020/21
	Actual $000	Budget $000	Actual $000
Operating revenue			
Revenue – Crown	602	757	628
Other revenue	7	4	8
Total operating revenue	**609**	**761**	**636**
Total operating expense	**609**	**761**	**636**
SURPLUS/(DEFICIT)	**-**	**-**	**-**

Expenditure in the Dairy output class was less than budgeted due to reduced spending on internal resources and external consultants. This was primarily driven by less activity than expected across the public reports and advice workstream.

Part 4 inquiries (economic regulation inquiries)

Uiuinga Wāhanga 4

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

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

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

Appropriation funding

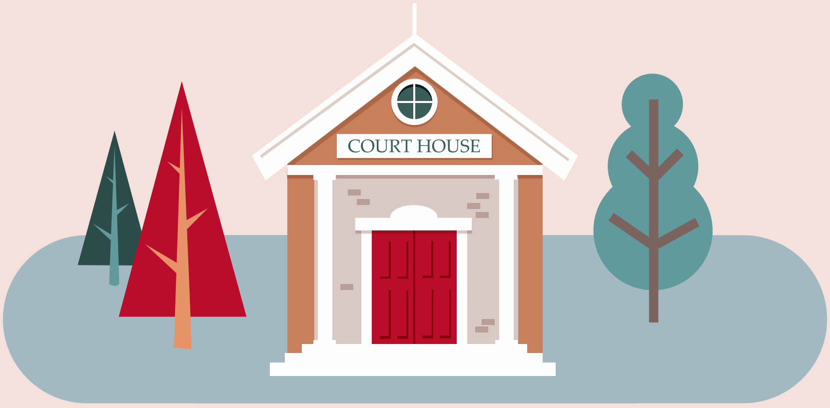
Te pūtea i whakaratoa

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

	Estimates $000	Supplementary Estimates $000	Actual $000	Difference vs Supplementary Estimates $000
Vote Business, Science and Innovation: Enforcement of Telecommunications Sector Regulation				
Revenue – Crown	9,118	9,118	7,888	(1,230)
Vote Business, Science and Innovation: Enforcement of Telecommunications Sector Fibre and Broadcasting Transmission Service Regulation 2018–2022 (MYA)				
Cumulative funding to 1 July 2021	12,641	12,938	12,938	-
Revenue – Crown	6,018	5,721	5,264	(457)
Cumulative funding to 30 June 2022	**18,659**	**18,659**	**18,202**	**(457)**
Remaining appropriation	-	-	457	457
Total appropriation	**18,659**	**18,659**	**18,659**	**-**
Vote Business, Science and Innovation: Enforcement of General Market Regulation – Liquid Fuels Monitoring and Enforcement (MCA)				
Revenue – Crown	3,830	3,830	3,330	(500)
Vote Business, Science and Innovation: Regulation of Electricity Lines Services 2019–2024 (MYA)				
Cumulative funding to 1 July 2021	12,350	12,675	12,675	-
Revenue – Crown	8,541	8,541	6,135	(2,406)
Cumulative funding to 30 June 2022	**20,891**	**21,216**	**18,810**	**(2,406)**
Remaining appropriation	17,674	17,349	19,755	2,406
Total appropriation	**38,565**	**38,565**	**38,565**	**-**
Vote Business, Science and Innovation: Regulation of Gas Pipeline Services 2019–2024 (MYA)				
Cumulative funding to 1 July 2021	3,200	2,381	2,381	-
Revenue – Crown	3,517	3,717	3,717	-
Cumulative funding to 30 June 2022	**6,717**	**6,098**	**6,098**	**-**
Remaining appropriation	6,304	6,923	6,923	-
Total appropriation	**13,012**	**13,021**	**13,021**	**-**

	Estimates $000	Supplementary Estimates $000	Actual $000	Difference vs Supplementary Estimates $000
Vote Business, Science and Innovation: Regulation of Specified Airport Services 2019–2024 (MYA)				
Cumulative funding to 1 July 2021	1,275	659	659	-
Revenue – Crown	475	600	366	(234)
Cumulative funding to 30 June 2022	**1,750**	**1,259**	**1,025**	**(234)**
Remaining appropriation	1,013	1,504	1,738	234
Total appropriation	2,763	2,763	2,763	-
Vote Business, Science and Innovation: Review of Commerce Act Input Methodologies for Economic Regulation for the Period 2021–2024 (MYA)				
Cumulative funding to 1 July 2021	-	-	-	-
Revenue – Crown	2,082	500	417	(83)
Cumulative funding to 30 June 2022	**2,082**	**500**	**417**	**(83)**
Remaining appropriation	5,918	7,500	7,583	83
Total appropriation	**8,000**	**8,000**	**8,000**	**-**
Vote Business, Science and Innovation: Enforcement of Dairy Sector Regulation and Auditing of Milk Price Setting				
Revenue – Crown	757	757	602	(155)
Vote Business, Science and Innovation: Economic Regulation Inquiries				
Revenue – Crown	-	1,000	-	(1,000)

Major litigation
Ngā take ture



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

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

Major litigation

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

Output measure	2021/22		2020/21	2019/20
	Actual	Target	Actual	Actual
Litigation Funds are utilised in accordance with the Litigation Fund criteria	**Achieved**	**Achieved**	Achieved	Achieved

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

Internally sourced litigation

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

Externally sourced litigation

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

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

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

Appropriation funding

	Estimates $000	Supplementary Estimates $000	Actual $000	Difference vs Supplementary Estimates $000
Commerce Commission Internally-Sourced Litigation				
Revenue – Crown	3,500	5,208	4,817	(391)
Commerce Commission Externally-Sourced Litigation				
Revenue – Crown	10,208	8,500	2,594	(5,906)
Total	**13,708**	**13,708**	**7,411**	**(6,297)**


COMMERCE
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NEW ZEALAND
Te Komihana Tauhokohoko

Our governance and management
Te kaitiakitanga me te taha whakahaere

Meet our Board

Tō mātou Poari

Anna Rawlings

Chair (to December 2022)

Anna was appointed Chair in June 2019. Her term as Chair expired in May 2022, and she remained in the role until 4 December 2022. Anna was first appointed a Commissioner in June 2014. She has been reappointed an Associate Commissioner for a term of one year commencing 5 December 2022. Anna was previously a partner in the dispute resolution division of Minter Ellison Rudd Watts, where she specialised in contentious and non-contentious aspects of competition, regulatory and consumer law. Anna holds a BA/LLB (Hons) from the University of Auckland and an LLM from the University of Toronto, where her work focused on law and economics.

Dr John Small

Chair (from December 2022)

John was appointed Chair for a term commencing 5 December 2022 and ending in June 2025. Prior to his appointment, John had been a Commissioner since June 2020. Before that, he was an Associate Commissioner from December 2018. Previously as an academic economist, John led the Economics Department at the University of Auckland where he taught, researched and supervised students on competition and regulatory economics. In private practice, John has directed two economics consultancies and personally advised numerous corporates, regulators and policy agencies in the Asia-Pacific region, often on contentious matters. A frequent expert witness before courts, tribunals and commissions, John has also served on the panel of lay members of the High Court of New Zealand. John has a PhD in economics from the University of Canterbury.

Sue Begg

Deputy Chair

Sue was appointed as a Commissioner in June 2009 and Deputy Chair in July 2010. She was an Associate Member of the ACCC from April 2016 to June 2019. Sue's term as Deputy Chair expired in June 2021, and she agreed to remain in the role until a replacement is found. She 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.

Tristan Gilbertson
Telecommunications Commissioner

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

Dr Derek Johnston
Commissioner

Derek was appointed as Commissioner in November 2019. A commercial lawyer, Derek has extensive experience and knowledge of competition law coupled with significant mergers and transactional expertise and familiarity with many of the regulated sectors. His past roles include being the independent Chair of New ZealandX's Regulatory Governance Committee and the Chair of the New Zealand Markets Disciplinary Tribunal. For many years Derek was a corporate partner with Russell McVeagh and most recently had been practising as a barrister and arbitrator at Thorndon Chambers. Derek holds undergraduate and postgraduate degrees in law from the University of Auckland and a doctorate in law from the University of Toronto.

Elisabeth Welson
Commissioner

Elisabeth was appointed in September 2012 as Associate Commissioner in September 2012 and as a Commissioner in August 2013. Elisabeth's term expired in March 2022, and she will remain until a replacement is found. Before joining the Commission, she was a senior commercial partner at Simpson Grierson, where she co-led the competition and regulatory group and headed the energy, natural resources and utilities market group. Elisabeth holds an LLB (Hons) from the University of Auckland and has practised as a barrister and solicitor in Aotearoa New Zealand and as a Solicitor of the Supreme Court of Queensland and Solicitor of the Supreme Court of New South Wales.

Meet our Board

Tō mātou Poari

Joseph Liava'a
Associate Commissioner

Joseph was appointed as Associate Commissioner in April 2019. Before joining the Commission, Joseph worked as the Community Liaison Manager for Nirvana Health Group. Before that, he was a consumer law adviser for the former Ministry of Consumer Affairs and also worked as a private secretary for the Minister. Joseph has also given consumer law training to budget advice services and community law centres. He has been involved with a variety of boards and panels, including Pacific Health and Welfare Inc, Vaiola Pacific Island Budgeting Service Trust (Māngere), Otara Health Charitable Trust as well as the Board of Consumer NZ. Joseph holds a BCom from the University of Otago and an LLB and postgraduate diploma in business specialising in health management from the University of Auckland.

Vhari McWha
Associate Commissioner

Vhari was appointed as an Associate Commissioner in September 2020. She is an economist and has advised on public policy and regulation, including competition analysis and market design. Before joining the Commission, Vhari was a Director at Sapere. Her earlier roles include Deputy Director at the economic consultancy NZIER, and Regulatory Affairs Manager at Meridian Energy. Vhari holds an MCom (Hons) in economics from the University of Canterbury.

Bryan Chapple
Associate Commissioner (from September 2022)

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

Nathan Strong
Associate Commissioner (from September 2022)

Nathan was appointed as an Associate Commissioner in September 2022. He is a qualified economist with over 20 years' experience focusing on applied competition and regulatory economics, including at senior management levels in regulated companies. Prior to joining the Commission, he was the General Manager (Commercial) at Unison Networks having first been appointed to the executive team at Unison in 2010. Nathan was also the Chair of the Electricity Networks Association's Regulatory Working Group and a Member of the Electricity Authority's Security and Reliability Council and has previously been a member of several Electricity Authority advisory groups.

Nathan Strong and Bryan Chapple began terms as Associate Commissioners on 5 September and 12 September respectively.

Anna Brakey
Associate Commissioner, Cross-Appointee from the ACCC (from March 2022)

Anna was appointed an ACCC Commissioner in December 2020. She has extensive experience in regulatory economics and public policy with over 25 years' experience working with regulators and government and within the private sector. She has had broad exposure to a wide range of infrastructure industries, including energy, water and transport. She chairs the ACCC's Infrastructure Committee, Communications Committee, Electricity Markets Inquiry Board and East Coast Gas Market Board and is a member of the ACCC's Competition Exemptions Committee and Agriculture Board. She is also an Associate Member of the Australian Communications and Media Authority.

Stephen Ridgeway
Associate Commissioner, Cross-Appointee from the ACCC (from March 2022)

Stephen was appointed an ACCC Commissioner in June 2019. He has a wealth of experience from previous roles as a lawyer in the private and public sectors. He is widely recognised as one of Australia's leading competition and consumer lawyers and an expert in the field. He chairs the ACCC's Mergers Review and Competition Exemptions Committees and is a member of the ACCC's Enforcement Committee, Consumer Data Right Committee and Agriculture Board.

Fred Hutchings
External Convenor of the Audit and Risk Committee

Fred is the external Convenor of the Audit and Risk Committee. He was a partner with PwC and holds several governance roles, including Chair of Seeka Kiwifruit Industries Limited, Director of Speirs Group Limited, Convenor of Ngāti Awa Audit and Risk Committee and an independent member of the ACC Risk Assurance and Audit Committee. He was formerly Chair of Tui Products Limited, the Office of the Auditor-General Audit and Risk Committee, and the Ministry of Foreign Affairs and Trade Audit and Risk Committee. He is also a Past President of Chartered Accountants Australia and New Zealand.

New Zealand member and committee member remuneration disclosures

The information below relates to the remuneration and disclosures of New Zealand members and associate members of the Commission. Commissioners from the ACCC do not receive payment for their participation as Commission members.

	2021/22 Actual $000	2020/21 Actual $000
A Rawlings (Chair)	628	558
S Begg (Deputy Chair)	431	410
T Gilbertson (Telecommunications Commissioner)	457	446
E Welson (Commissioner)	365	366
J Crawford (Associate Commissioner)[15]	123	257
J Small (Commissioner)	363	295
J Liava'a (Associate Commissioner)	218	216
D Johnston (Commissioner)	364	319
V McWha (Associate Commissioner)[16]	366	237
TOTAL MEMBERS' REMUNERATION	**3,315**	**3,104**

The Chair (Anna Rawlings) and the Telecommunications Commissioner (Tristan Gilbertson) are in full-time positions and receive leave entitlements. The dollar value of the movement in any accrued leave entitlement is included in the remuneration total above. In 2021, both had temporary remuneration reductions imposed in response to COVID-19 for the period 9 July 2020 to 6 January 2021 (10% reduction for the Telecommunications Commissioner and 20% reduction for the Chair).

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

Commissioners' and Associates' daily rates

Applied from 1 July 2019 to 8 July 2020 and from 7 January 2021 onwards

	2021/22 Actual $	2020/21 Actual $
Deputy Chair	1,936	1,936
Commissioners and Associate Commissioners	1,630	1,630

15. John Crawford ended his term as an associate member on 22 December 2021.

16. Vhari McWha was appointed as an associate member from 14 September 2020.

COVID-19 remuneration reduction period

Applied from 9 July 2020 to 6 January 2021

	2021/22 Actual $	2020/21 Actual $
Deputy Chair	N/A	1,744
Commissioners and Associate Commissioners	N/A	1,467

The Deputy Chair, Commissioners and Associates had imposed a temporary remuneration reduction of 10% in response to COVID-19, resulting in reduced rates for the period 9 July 2020 to 6 January 2021.

Commissioners' and Associate Commissioners' additional remuneration

Most Commissioners and Associate Commissioners are entitled to additional remuneration above the daily rate if the number of hours worked on any day exceeds eight hours. The daily rate includes any annual and sick leave entitlement, and no additional payments are made on account of annual leave or sick leave. Remuneration for the Deputy Chair is capped at $437,000 a year, and remuneration for Commissioners and Associate Commissioners is capped at $367,500 a year. The Chair and Telecommunications Commissioner are salaried appointments and receive annual leave and sick leave entitlements in addition to their salary. The Chair and Telecommunications Commissioner are not entitled to additional pay for additional hours worked.

Other payments in respect of Commissioners and Associate Commissioners

The Commission paid $7,500 to an Audit and Risk Committee member appointed by the Board who is not a Board member during the year (2021: $12,500).

The Commission has provided a Deed of Indemnity to Commissioners and Associate Commissioners 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 Commissioners, Associate Commisioners and employees.

No Commissioners or Associate Commissioners received compensation in relation to cessation (2021: nil).

Meet our Senior Leadership Team
Tō mātou Rōpū Kaiarataki

Adrienne Meikle Chief Executive Officer

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

Antonia Horrocks General Manager, Competition

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

Nick Russ General Manager, Market Regulation

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

Louise Unger General Manager, Credit

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

Vanessa Horne General Manager, Fair Trading

Vanessa joined the Commission in April 2021 from a role as Group Manager, Overseas Investment Office at Land Information New Zealand. Her regulatory and legal background spans several regulatory systems, including overseas investment, intellectual property, health and safety, emergency management, occupational regulation, rural broadband and energy safety. Vanessa has a Master of Public Policy from Massey University and a law degree from Otago University.

Geoff Williamson General Manager, Organisation Performance

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

Raj Krishnan General Manager, Strategy, Governance and Engagement

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

Andrew Riseley General Manager, Legal Services

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

Andy Burgess General Manager, Infrastructure Regulation

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

PJ Devonshire Pou Ārahi

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

Governance of our organisation

Te mahi whakahaere a te Poari

Role and responsibilities of the Board

The Governor-General appoints our Board on the recommendation of the Minister of Commerce and Consumer Affairs. The Telecommunications Commissioner is appointed on the recommendation of the Minister for the Digital Economy and Communications. Board members are appointed for their knowledge of and experience in areas relevant to the Commission's work.

Associate Commissioners are appointed by the Minister of Commerce and Consumer Affairs.

The Board is the governing body of the Commission with authority to exercise the Commission's powers and perform the Commission's functions.

The Board performs a traditional governance role in monitoring performance, providing strategic direction, ensuring compliance and providing oversight. It also has a statutory decision-making role outlined in each piece of legislation we enforce.

The Board delegates to and holds the Chief Executive accountable for the management of the Commission.

Role and responsibilities of the Board

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

- monitoring the Commission's performance and planning its strategic direction
- using delegations to make the Commission's work more efficient
- using advisory committees to the Board such as the Audit and Risk Committee
- overseeing a broad variety of strategies, policies, processes, systems, frameworks and analytical approaches to help ensure effective decision making.

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

Our Chair establishes separate divisions of the Commission to exercise the powers of the Commission under the laws we enforce. Divisions can include Board members or Associate Commissioners. As at 30 June 2022 the Commission had nine standing divisions and two standing committees.

During 2021/22, the Commission had the following standing divisions and standing committees.

Division	Description
Commerce Act Division	Exercises the Commission's functions and powers under the Commerce Act 1986, including making decisions to commence proceedings under the legislation, undertaking investigations and inquiries, taking evidence and requiring information.
Consumer Division	Exercises the Commission's functions and powers under the Fair Trading Act 1986 and Credit Contracts and Consumer Finance Act 2003, including undertaking investigations, taking evidence and compelling the production of information, making decisions to commence proceedings under the legislation and undertaking studies regarding matters affecting the interests of consumers under the Fair Trading Act.
Dairy Division	Exercises the Commission's powers and functions under the Dairy Industry Restructuring Act 2001 related to the domestic dairy sector and Fonterra.
Fibre Regulation Division	Exercise's the Commission's powers and functions under the Telecommunications Act 2011, including to determine, review and amend telecommunications input methodologies and determinations in relation to information disclosure and price-quality regulation and respond to proceedings that challenge the Commission's decisions in relation to these areas.
Fuel Division	Exercises all the functions and powers of the Commission relating to the Fuel Industry Act 2020 and any regulations made under the FIA.
Groceries Market Study Division	Exercises the Commission's powers in relation to any reference from the Minister of Commerce and Consumer Affairs under section 51 of the Commerce Act of a competition study under Part 3A of the Commerce Act into factors that may affect competition for the supply or acquisition of groceries by retailers in New Zealand (the groceries market study), including, without limitation, any proceedings arising from or relating to the groceries market study.
Part 4 Division	Exercises the Commission's powers and responsibilities under Part 4 of the Commerce Act to regulate electricity, gas pipeline and specified airport services.
Residential Building Supplies Market Study Division	Exercises the powers of the Commission in relation to any reference from the Minister of Commerce and Consumer Affairs under section 51 of the Commerce Act of a competition study under Part 3A of the Commerce Act into any factors that may affect competition for the supply or acquisition of key building supplies used to build the major components of residential buildings, including, without limitation, any proceedings arising from or relating to the residential building supplies market study.
Telecommunications Division	Exercises the Commission's functions and powers under the Telecommunications Act, including determinations in respect of designated multi-network services, pricing review determinations, liability allocation determinations, telecommunications service obligations cost calculation determinations and investigations about any proposed alterations to the legislation.
Audit and Risk Committee	Assists the Board in achieving the Commission's vision and strategy by providing assurance that good-practice audit, risk management and finance is implemented in the organisation.
Enforcement Practices Committee	Provides advice and recommendations to the Board on the Commission's enforcement frameworks, including consideration of its settings, thresholds and tolerances, and provides the Board with assurance on any related policies and guidance with the objective of achieving optimal organisation-wide internal enforcement-related practices and facilitating standardisation and knowledge sharing across the organisation.

Health and safety

The Board has overall responsibility for health and safety at the Commission, including due diligence to ensure the Commission complies with workplace health and safety requirements and actively engages in matter affecting the health, safety and wellness of our people.

Conflicts of interest

The Board has a conflicts of interest process to ensure the independence of the Commission is maintained and our decisions are free of bias. Board members declare their interests as they change, and the Commission maintains a register of interests for all Board members, which is reviewed and updated regularly. During 2021/22, we refreshed the conflicts policy and reviewed and updated processes applying to Commissioners and Associate Commissioners.

Managing risk effectively

We actively manage risk and mitigate risks that could affect our ability to achieve our objectives. The Board is responsible for reviewing and approving our risk management framework and delegates day-to-day management of risk to the Chief Executive. This delegation ensures that risk is integrated into our overall business processes, with a robust framework of identification, evaluation, monitoring and controls in place.

The Audit and Risk Committee also reviews reports from management, including reviews conducted by external professional service providers and external auditors on the effectiveness of systems for internal control and financial reporting.

Legislative compliance

Through our legislative compliance policy, we ensure the operations of the Commission are conducted in accordance with and comply with legal and internal policy requirements. Legislative compliance assurance is part of the Commission's overall internal control environment. We assess and report annually to the Board on our compliance with our legislative obligations.

Ministerial directions

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

- Procurement functional leadership (New Zealand Gazette, 19 June 2014). We have continued to comply with the Government Procurement Rules in support of a whole-of-government approach to procurement.
- Support for a whole-of-government approach to the New Zealand Business Number (NZBN) (New Zealand Gazette, 14 July 2016). We have integrated the NZBN as the primary identifier for relevant businesses in our core system, Streamline. In May 2017, we implemented lookup functions, bringing business data into the system from the NZBN database via MBIE's online interfaces. The NZBN integration with our systems was enhanced further in 2020.
- Implement the Carbon Neutral Government Programme (CNGP) to accelerate emissions reductions across the public sector (New Zealand Gazette, 31 May 2022). The CNGP is designed to ensure that government agencies are leading the way to reduce emissions as New Zealand transitions to a low-emissions, resilient economy and ensures agencies adapt to operate in a low-emissions future.

On 1 November 2019, the Minister of Finance and the Minister for the Public Service issued an Enduring Letter of Expectations to the Board Chairs of Statutory Crown Entities, including the Commission. The letter replaces the previous Enduring Letter of Expectations that was published on 26 July 2012. It sets out the government's expectations of all statutory Crown entities and is to be considered within the context of the Crown Entities Act and other relevant legislation.

On 22 March 2020, the Minister of Commerce and Consumer Affairs issued a Government Policy Statement in relation to maintaining confidence in the market for essential goods and services during the first COVID-19 Alert Level 4 lockdown.

In May 2022, the Minister of Commerce and Consumer Affairs issued a letter of expectation asking the Commission to have regard to the use of its existing powers in relation to any matters outlined in the retail groceries market study.


COMMERCE
COMMISSION
NEW ZEALAND
Te Komihana Tauhokohoko

Organisation capability and health
Tā te whakahaere āheinga, hauora hoki

Profile of our people on 30 June 2022
Ō mātou tāngata i te 30 o Hune 2022

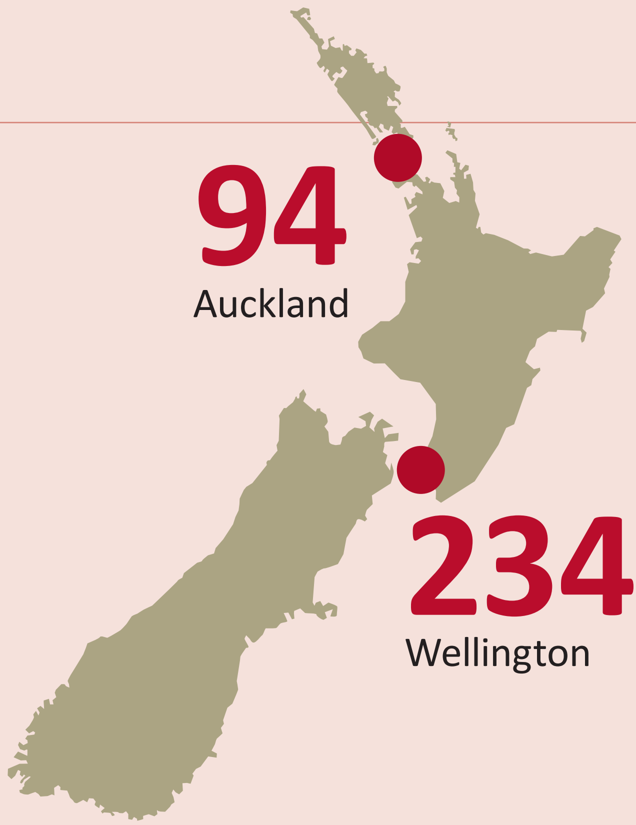
Organisation-wide 2022

328
Number of employees (headcount)

47% Male

52% Female

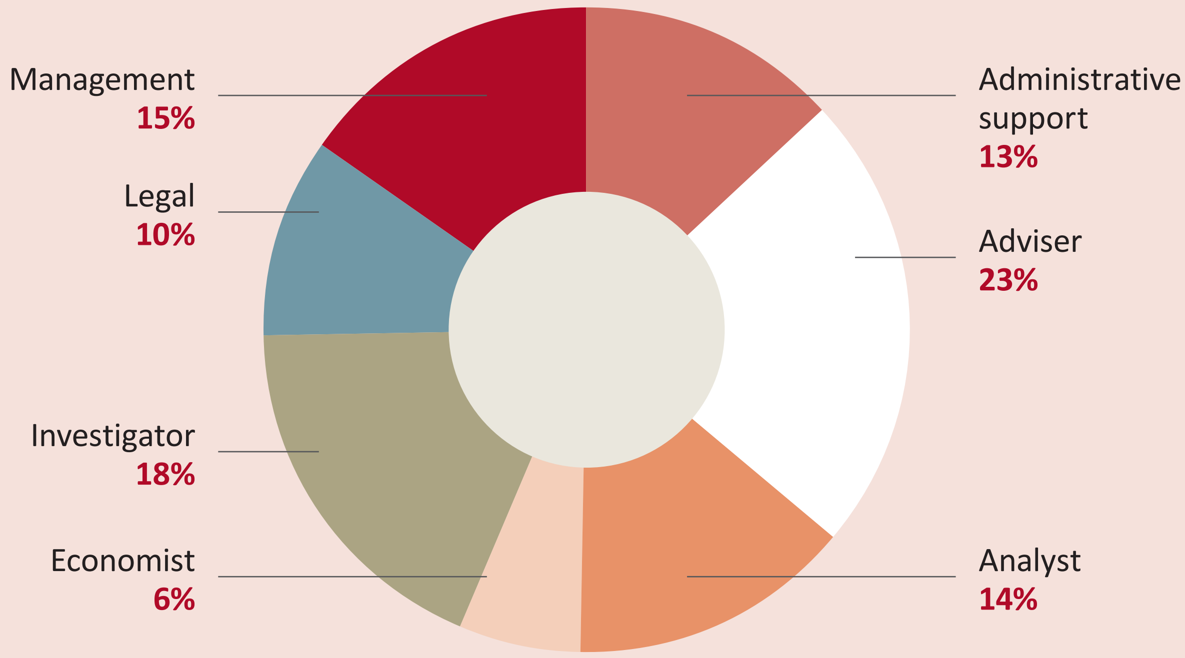
1% Gender not specified



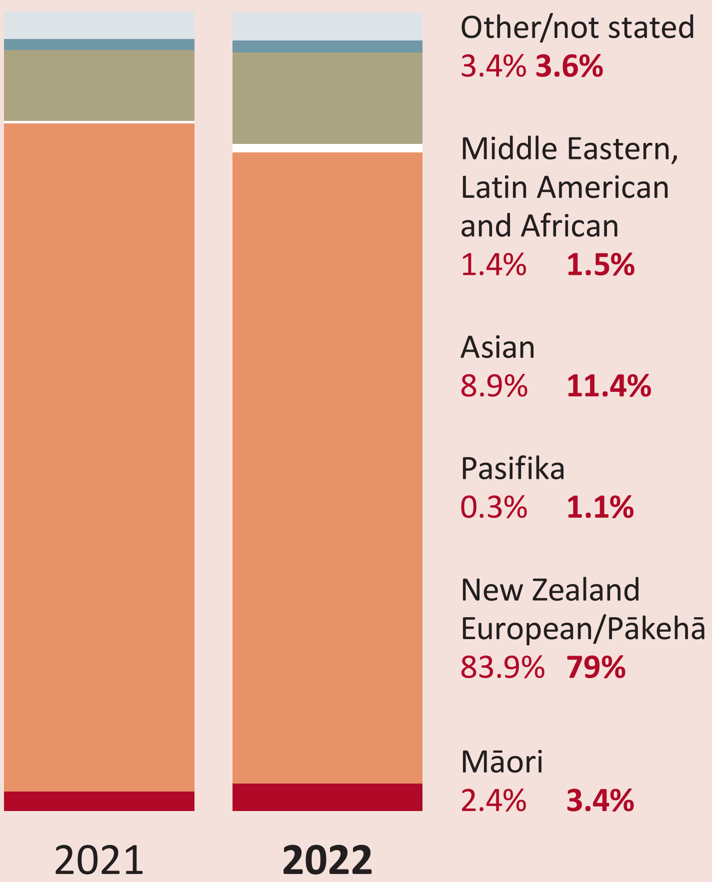
14.9% Employee turnover

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

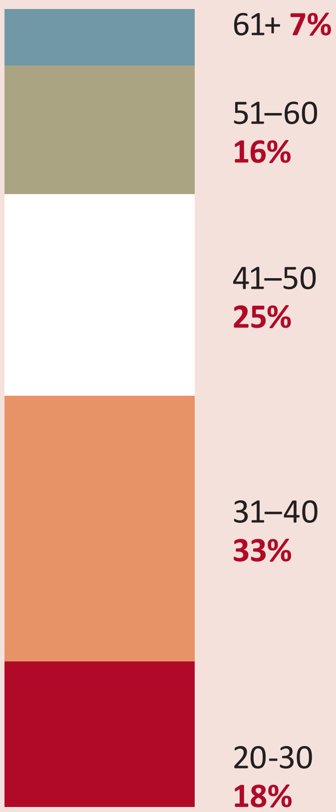
Occupation 2022



Ethnicity



Age groups 2022



Our People Strategy
Tō Mātou Rautaki Tāngata

Our people remain central to achieving our vision and strategy. This is reflected in our People Strategy, which includes six goals that guide our people focus, supported by our organisational values.

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

While these core goals are enduring, annual updating of the focus areas that sit under each of these in our People Plan ensures a dynamic and responsive approach in building on our success.

Our values shape our culture by setting out what is important to us and defining how we work with and behave towards each other and the communities that we serve. A review of our values is under way to confirm that our values continue to reflect the Commission's evolving organisational culture, which includes embedding te ao Māori into our mahi and embracing the development of Māori cultural capability within the Commission.

Six strategic goals

Connected and collaborative

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

Inclusive, diverse, safe and healthy

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

Excellent people leadership and management

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

Attract

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

Develop

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

Retain

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

Excellence / Integrity / Accountability / Respect / Good judgement

Being a good employer
Kia tū hei kaitukumahi pai

Our People Strategy incorporates the seven elements of being a good employer set out by the New Zealand Human Rights Commission. The table below provides examples of our approach under each of the seven elements. Further examples are referenced under relevant organisation capability and health sections in this report.

Element	***Initiatives***
Leadership, accountability and culture	We continue to make strong progress in lifting leadership capability across the Commission. We have implemented a leadership roadmap that provides opportunities for leaders (from early in career through to senior leaders) to engage with a range of tools to support growing their leadership capabilities. These include practical models, frameworks and assessments to enable reflection and development of capability areas. In the context of a hybrid workplace, we have maintained and developed new communication channels for leaders to share information, knowledge and learnings with others. The Chief Executive and Senior Leadership Team hold regular sessions with our people to provide updates and share progress against organisational goals, and the organisation's people leaders come together as a People Leaders' Forum.
Recruitment, selection and induction	We continue to refine our recruitment function, enhancing our ability to recruit a diverse and highly capable workforce. This includes transitioning to a new online recruitment system and refreshing our internal and external career sites along with internal recruitment guidance. Incorporating Kia Toipoto guidance, we now use robust processes with a focus on embracing diversity and employment equity. We have incorporated Te Kawa Mataaho | Public Service Commission's new model standards covering workforce assurance within our recruitment and exit approach. A review and refresh of our employee induction programme was completed during the period.
Employee development, promotion and exit	The implementation of our new growth and development framework in 2021 has enabled a structured approach to support ongoing organisational growth and enable employees to pursue a continuous journey of learning and development. This is a key element of our capability and development approach where our people have clear objectives and aligned development plans. Our new operating model and structure reflecting the Commission's growing duties and responsibilities has provided further opportunities for internal career progression across functions. Vacant roles are also advertised internally. Reporting on and analysing data about employee turnover and feedback from exit interviews continues to help inform our overall employee experience together with identifying relevant focus areas.

Flexibility and work design	Embedding our flexible working approach and technology applications has enabled us to accommodate flexible arrangements and organise work to support both our business needs and our people. Ongoing monitoring allows for refinements and providing additional support to our people leaders.
Remuneration, recognition and conditions	We continue to have regard to the Government Workforce Policy Statement on the government's expectations for employment relations in the public sector, including the Public Service guidelines covering pay restraint in response to the COVID-19 situation. Work has commenced on implementing the Kia Toipoto framework and action plan for 2021–2024. We commenced a review of our remuneration strategy and framework under the Total Reward project as we continue to refine our approach to rewarding and recognising our people. The first phase of this work incorporated a stocktake of the evaluation and grading of all roles in the updated organisation structure.
Harassment and bullying prevention	We have zero tolerance of harassment, bullying and discrimination. Our organisational values; code of conduct; anti-harassment, bullying and discrimination policy; equality, diversity and inclusion policy; and updated protected disclosures policy all detail expected behaviours and joint responsibilities. This includes details on how employees can safely raise matters of concern. Reminders about the content of our key policies are reinforced through required annual declarations by staff acknowledging their compliance with these Commission policies.
Safe and healthy work environment	Our health, safety and wellness policy, manual and framework ensure that we maintain a healthy and safe work environment. We comply with workplace health and safety laws and have safe operating procedures for several potential risks specific to our business. Our annual health and safety plan and regular reporting schedule supports a focus on continuous improvement.

Profile of our people on 30 June 2022

Ō mātou tāngata i te 30 o Hune 2022

Changes to the Commission's functions, powers and duties have seen us to grow into a medium-sized organisation. We now have 328 staff, and we expect that number to grow further as our responsibilities continue to expand into new areas.

Organisation-wide	2020	2021	2022
Number of employees (FTE)	244	273	316
Number of employee (headcount)	-	283	328
Male	50%	49%	47%
Female	50%	51%	52%[3]
Employee turnover	10.3%	13.4%	14.9%
The average number of years of experience of our employees (with the Commerce Commission)	5.2	4.8	4.6

**One percent of staff did not disclose their gender.*

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

Occupation	2020	2021	2022
Administrative support	12%	14%	13%
Adviser	24%	20%	23%
Analyst	17%	17%	14%
Economist	5%	6%	6%
Investigator	18%	18%	18%
Legal	13%	13%	10%
Management	11%	11%	15%

Staff in our Auckland and Wellington offices:

Location	2020	2021	2022
Auckland	37	61	94
Wellington	214	222	234

4. 1% of staff did not disclose their gender.

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

Our Statement of Intent sets out measures to monitor our organisational health and capability.

Employee engagement

We monitor our employee engagement through a variety of surveys and check-ins. In 2021, these included our onboarding check in, our ComPulse workplace survey and feedback from exit interviews. Continuous listening to our employees is core to shaping the Commission employee experience, providing insights that can quickly translate to actions and impact.

Our regular ComPulse survey helps us understand how our employees feel at work and where we need to improve our employee experience.

This year, we ran the survey four times with a consistent response rate of 80% or higher for each survey.

Our results show an increasingly positive trend in overall engagement through a period of significant change, increasing 3 points to 7.7. The rating scale runs from 0 at worst and 10 at best. It is pleasing to note that, where focus has been concentrated, we have seen strong gains. These focus areas include flexible work practices, management support, growth through career pathways and opportunities, challenging work, trust in expressing opinions, performance feedback and recognition.

In 2021, managers whose teams included four or more survey respondents were able to receive specific team reports online. Training and support are available to help managers share results with their teams, lead conversations and agree actions.

The health, safety and wellbeing of our people

In response to the continuing COVID-19 pandemic, our focus remains on identifying and addressing the health, safety and wellness of our people while striving to minimise the impact on business continuity. This extends to health and safety considerations while working remotely. Our internal COVID-19 policies, guidance and advice are updated regularly to reflect the evolving situation supported by ongoing communications to our staff.

We continue to offer staff a range of services, resources, education and workshops, including health checks, flu vaccinations, e-learning modules, mental health awareness workshops, mindfulness and EAP services. Courses are offered for training new health and safety representatives and first aiders. We also use our intranet to raise awareness and provide resources around health, safety and wellness issues and to celebrate national and world awareness days such as the ShakeOut earthquake drill, evacuation protocols, World Day for Safety and Health at Work and Safer Internet Day.

We have developed an annual plan to action the recommendations of the health and safety audit with a focus on continuous improvement. Regular reporting by the Health and Safety Committee enables tracking of progress and timely responses to risks that are identified.

Driving protective security improvements

The programme of work to drive security improvements across the Commission continues and includes structured education and training, refreshing our threat and security assessments and ensuring that security measures relating to our people and places are actively managed. As part of our commitment to continually improve our security posture, we are committed to implementing the government's Protective Security Requirements.

Diversity and inclusion in our organisation

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

Our focus on creating a diverse workforce and an inclusive culture to reflect and best serve our communities is supported by a planned programme of work each year, including measuring progress through data collection and our employee workplace survey. The refreshed Diversity and Inclusion Programme incorporates focused actions, including measurable goals and key performance indicators, supporting increased ao Māori capability and embedding inclusive practices (Kia Toipoto and Papa Pounamu initiatives). We continue to strive for increased visibility of our commitment to diversity and inclusion and grow employee involvement through the establishment of employee-led networks. Our employee survey reflects that our employees are generally satisfied with the Commission's efforts to support diversity and inclusion.

The ethnic diversity score index measures diversity in a group and is useful to compare sets of data – for instance, to see whether ethnic diversity is increasing or decreasing over time. The range is from 0 to 1, where high scores (close to 1) indicate high diversity and low scores (close to 0) indicate low diversity. The Commission's ethnic diversity index score for 2021/22 is 0.55 compared to 0.52 in 2020/21 and 0.48 in 2019/20.

Ethnicity	2021	2022
Māori	2.4%	3.4%
New Zealand European/Pākehā	83.9%	79%
Pasifika	0.3%	1.1%
Asian	8.9%	11.4%
Middle Eastern, Latin American and African	1.4%	1.5%
Other/not stated	3.4%	3.6%

The Commission has maintained a good spread of staff across various age groups:

Age groups	2020	2021	2022
20–30	18%	23%	18%
31–40	29%	28%	33%
41–50	32%	29%	25%
51–60	14%	14%	16%
61+	7%	6%	7%

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

Plans are in place to grow membership of the Commission's Diversity and Inclusion Network and support the establishment of other employee-led networks. These initiatives are key to supporting a diverse, thriving workforce where our people know that differences are valued and all voices are heard.

Our partnership with Diversity Works continues. This includes building on the initiatives and findings of its 2019 stocktake report and completing an Aotearoa Inclusivity Matrix, a comprehensive assessment to review progress and establish longer-term goals for the Commission's diversity and inclusion landscape. Some specific areas we have focused on include recruitment and attraction, career development and inclusive leadership.

We have recently refreshed the diversity and inclusion page on our intranet, which promotes a range of resources, including our strategy, learning and development tools, policies, information on initiatives, events and employee networks. We received positive response to the option for our staff to include personal pronouns in their email signatures.

We continue to participate in programmes that increase pathways into the Commission, including the Tupu Tai Pasifika and Tupu Toa internship programmes. We celebrate awareness-building activities such as International Women's Day, International Day Against Homophobia, Transphobia and Biphobia, Pink Shirt Day, Te Wiki o te Reo Māori, Samoa Language Week and Mental Health Awareness Week.

Flexible working arrangements

The Commission is committed to providing an excellent work environment, which includes supporting flexible work practices where employees can excel and fully contribute their talents while maintaining a healthy work-life-family balance. Our adoption of flexible work practices positioned the Commission well to accommodate and adapt to individual needs associated with the COVID-19 pandemic, including during Alert Level 3 and 4 restrictions.

Our approach allows for vital in-person connectivity, collaboration and cohesion between individual employees, both within and across teams, as well as the flexibility to work outside the office. All roles are treated as flexible unless there is a genuine business reason for a role not to be. Every role should be suitable for some form of flexibility, but not every type of flexibility will work for every role. We encourage flexible working requests that balance the needs of the Commission, the individual role, the employee and the team.

Our people successfully mix working in the office and remotely with more than 50% of our employees having agreed on flexible working arrangements:

	2020	2021	2022
Percentage of employees on flexible working arrangements	59%	60%	51%

Gender pay gap

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

In 2021/22, 50% of our Board (our Commissioners) were women, including our Chair, and 44% of our Senior Leadership Team, including the Chief Executive, are women.

The proportions of female and male categorised by seniority are as follows:

Senior Managers	Tier 1	Tier 2	Tier 3
Female	100%	37.5%	62.2%
Male	-	62.5%	37.8%

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

Our gender pay gap is primarily caused by having a higher number of male staff in highly paid technical specialist roles, particularly in our regulated industries work, and more women in lower-paid administrative roles. To overcome this issue, we continue to focus on the pipeline for recruitment of women into specialist roles, supported by our approach to flexible working.

Disclosure statements

Disclosure of cessation payments

During the year ended 30 June 2022, compensation or other benefits paid to two employees in relation to cessation totaled $121,750 (2021: $136,817).

Disclosure of employee remuneration paid

Employee remuneration paid over $100,000 during the year ended 30 June 2022, grouped into $10,000 bands

	2021/22 Actual	2020/21 Actual
$100,000 – $110,000	22	15
$110,001 – $120,000	25	21
$120,001 – $130,000	23	18
$130,001 – $140,000	22	21
$140,001 – $150,000	21	16
$150,001 – $160,000	23	12
$160,001 – $170,000	6	10
$170,001 – $180,000	12	10
$180,001 – $190,000	9	3
$190,001 – $200,000	8	7
$200,001 – $210,000	2	3
$210,001 – $220,000	3	2
$220,001 – $230,000	1	0
$230,001 – $240,000	1	1
$240,001 – $250,000	0	0
$250,001 – $260,000	1	0
$260,001 – $270,000	4	1
$270,001 – $280,000	0	2
$280,001 – $290,000	1	1
$290,001 – $300,000	2	1
$360,001 – $370,000	0	1
$390,001 – $400,000	1	0

Our environmental sustainability
Tā mātou kia toitū te taiao

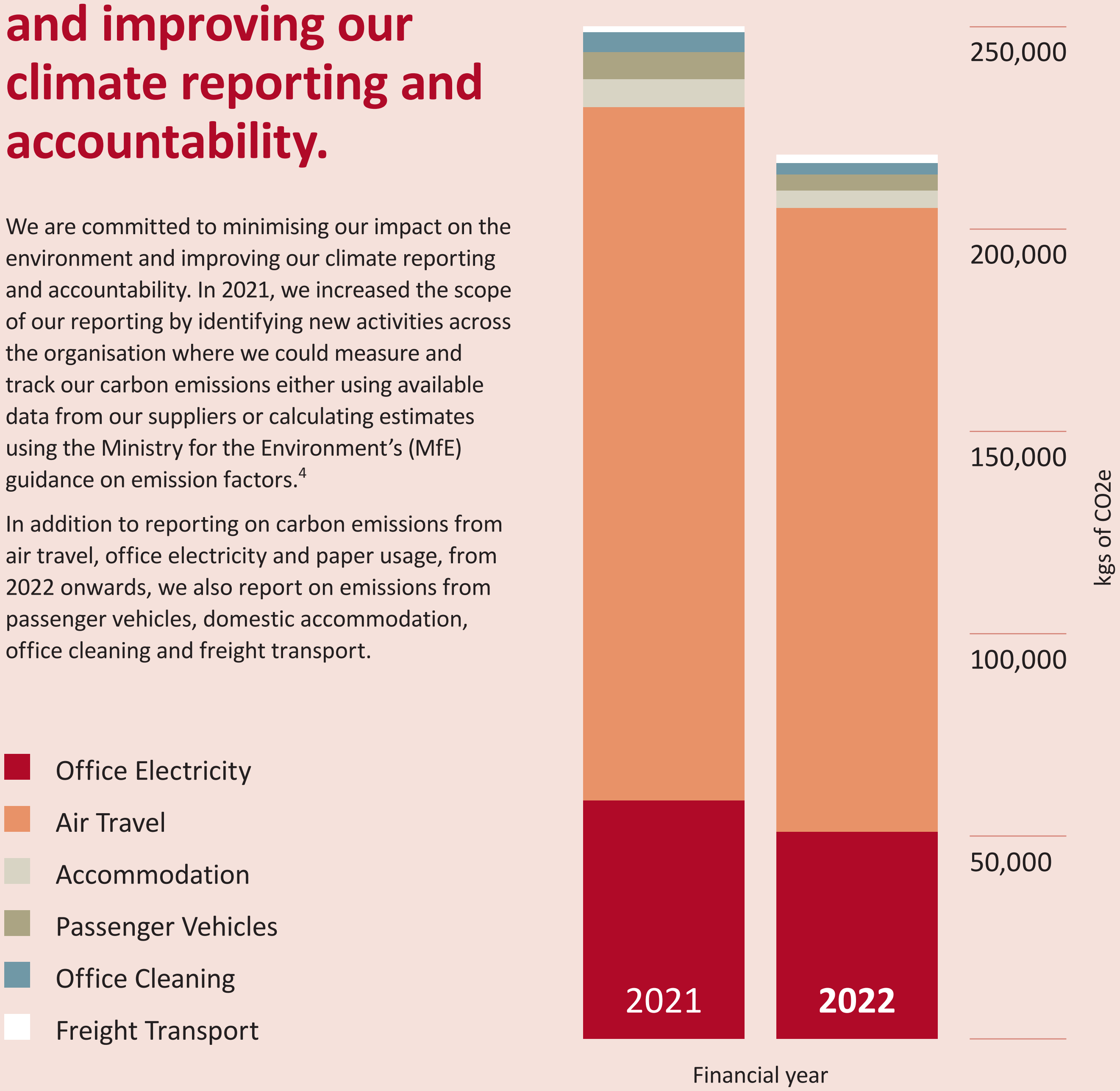
We are committed to minimising our impact on the environment and improving our climate reporting and accountability.

We are committed to minimising our impact on the environment and improving our climate reporting and accountability. In 2021, we increased the scope of our reporting by identifying new activities across the organisation where we could measure and track our carbon emissions either using available data from our suppliers or calculating estimates using the Ministry for the Environment's (MfE) guidance on emission factors.[4]

In addition to reporting on carbon emissions from air travel, office electricity and paper usage, from 2022 onwards, we also report on emissions from passenger vehicles, domestic accommodation, office cleaning and freight transport.

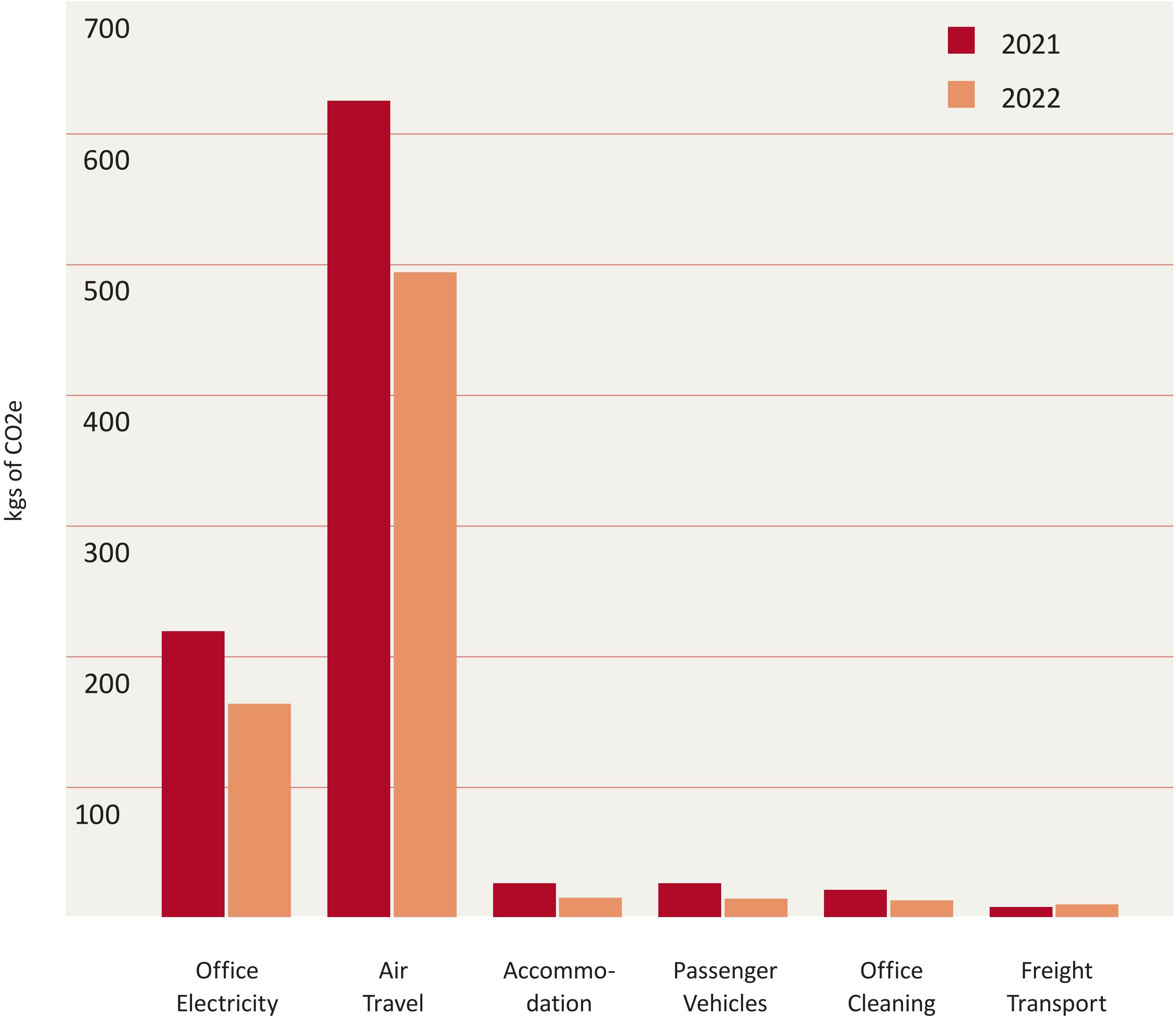
Carbon Emissions 2022 vs 2021

Carbon Emissions by Activity



4. https://environment.govt.nz/publications/measuring-emissions-detailed-guide-2020/

Carbon Emissions per FTE

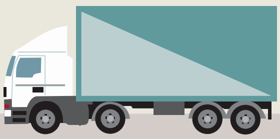


	2022		2021		
Source of Carbon Emissions	Total Emissions kgs of CO2e	Emissions per FTE kgs of CO2e	Total Emissions kgs of CO2e	Emissions per FTE kgs of CO2e	Change
Office Electricity	50,928	161	58,621	215	▼
Air Travel	153,389	485	170,511	625	▼
Accommodation	4,239	13	6,827	25	▼
Passenger Vehicles	3,987	13	6,658	24	▼
Office Cleaning	2,840	9	4,950	18	▼
Freight Transport	2,075	7	1,475	5	▼
Total	217,459	688	249,042	912	▲

Office electricity

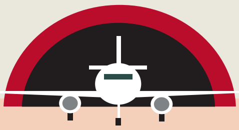
Office electricity emissions **decreased by 13%** in 2022 compared to 2021 due to consuming 68,000 fewer kilowatt hours.

More staff working from home during lockdown periods and by choice through flexible working on a regular basis has resulted in electricity savings and reduced carbon emissions – for instance, through reduced usage of computer monitors, printers and meeting room equipment.[5]



Freight transport

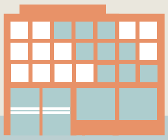
Freight transport emissions **increased by 41%** in 2022 compared to 2021 despite total tonne-kilometres (freight weight multiplied by distance) decreasing by 22%.



Air travel emissions

Air travel emissions **reduced by 10%** in 2022 compared to 2021 due to staff travelling 170,000 fewer kilometres.

This was a result of the ongoing impact of COVID-19 travel restrictions as well as initiatives to actively reduce the need for travel by investing in video conferencing technology and software.



Accommodation

Accommodation emissions were **38% lower** in 2022 compared to 2021 due to staff staying 104 fewer nights because of less travel.

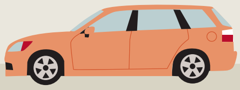
Paper

Paper usage **fell by 14%** on a per FTE basis in 2022 (3.7 reams used per FTE) compared to 2021 (4.3 reams used per FTE). There are no emissions from paper usage as almost all the paper we purchased is carbon neutral.[7]

Office cleaning

Office cleaning emissions were **43% lower** in 2022 compared to 2021 due to cleaners utilising more efficient means of transportation.

Emissions from office cleaning include travel and transport and waste.[6]



Passenger vehicles

Passenger vehicle emissions **fell by 40%** in 2022 compared to 2021 due to staff travelling 11,400 fewer kilometres.

Emissions from passenger vehicles include rental cars, taxis and ride-share apps.

This was a result of the ongoing impact of COVID-19 travel restrictions as well as initiatives to actively reduce the need for travel by investing in video conferencing technology and software.

Our next focus is on using this data to develop sustainability targets and performance measures to drive our climate accountability and reduce our carbon footprint, which will help us respond to changing expectations and government policy settings.

5. We acknowledge that while there have been electricity savings in our offices because of staff working from home, the positive impacts of this will likely be offset by staff increasing their home electricity use, overall having a net neutral impact on the environment.
6. Cleaning emissions reporting is provided to us from our Wellington cleaning supplier and covers the year from April to March, which varies by a quarter from our financial year from July to June. Note that only Wellington office emissions are reported as no data is available from our Auckland supplier.
7. 97% of all paper purchased is from certified carbon-neutral copy paper ranges.

Our finances
Te taha pūtea

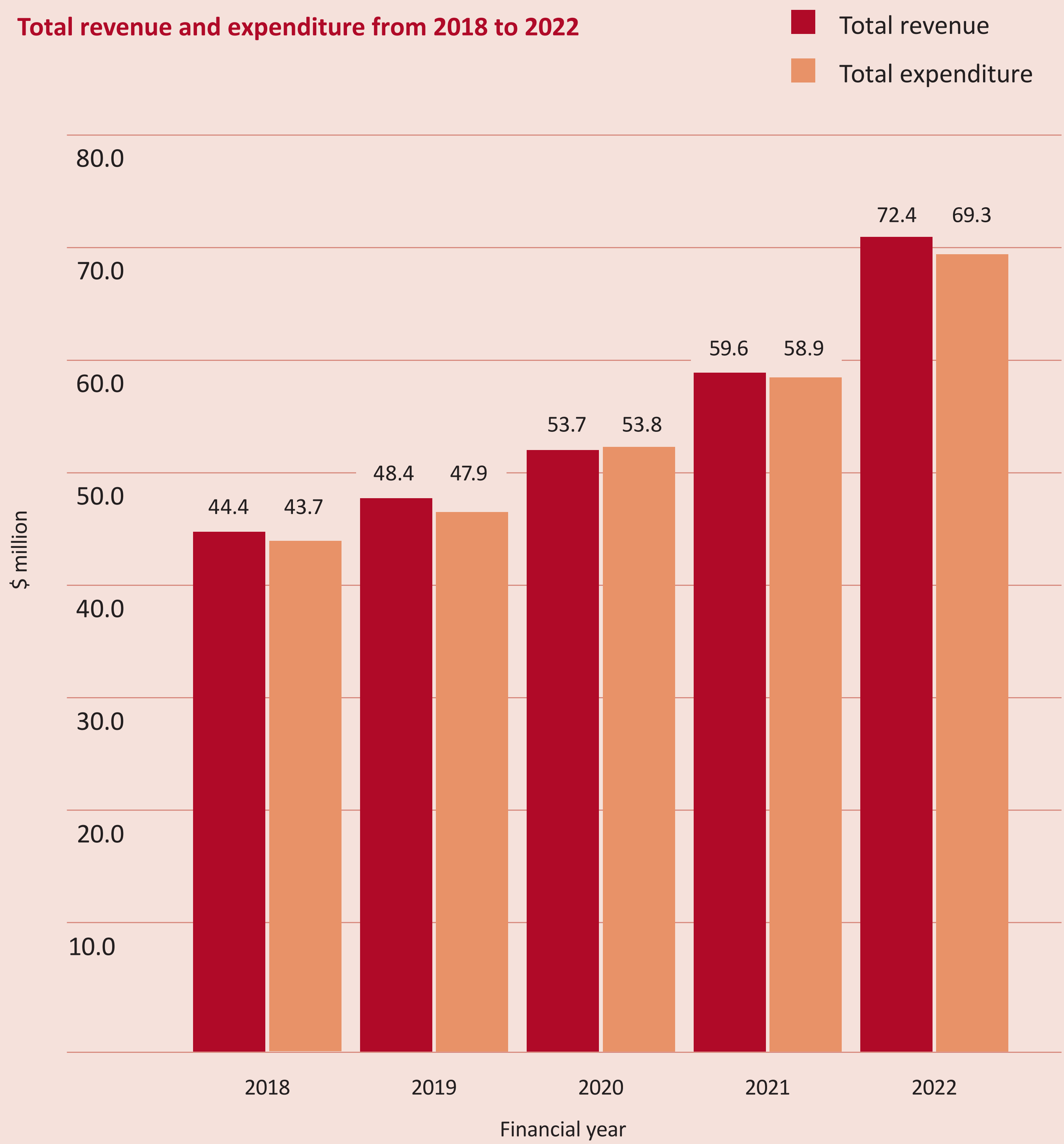
Financial statements overview
Tirohanga whānui ki ngā tauākī pūtea

The Commission has experienced steady and consistent growth in both revenue and expenditure over 2018–2022.

An external review by PwC in 2019 formed the basis for a subsequent increase in funding agreed by the government in 2020, intended to address cost pressures, ensure the Commission is adequately funded to deliver on its existing functions and strengthen its capabilities and capacity to deliver on increased expectations.

In addition, new funding has been received for the Commission's growing regulatory responsibilities in recent years, which include enforcing new regulatory regimes for fuel and the retail payment system, implementing credit reforms, including the establishment of a registry function and undertaking market studies in the building supplies and retail groceries sectors.

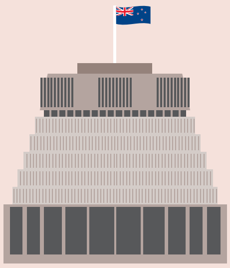
Total revenue and expenditure from 2018 to 2022



Revenue

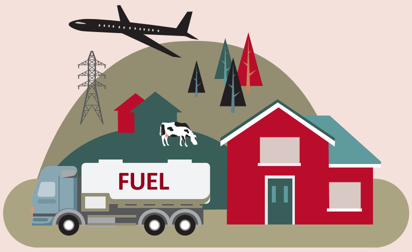
The Commission recorded total revenue of $72.4 million for 2021/22, compared to $59.6 million for 2020/21. Our funding provides us with the resources to complete our many functions, and comes from the following sources:

Our funding for 2021/22



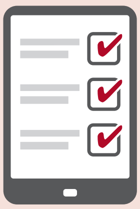
$42.5m

Revenue – Crown
General taxes



$27.7m

Revenue – Crown
Industry levies

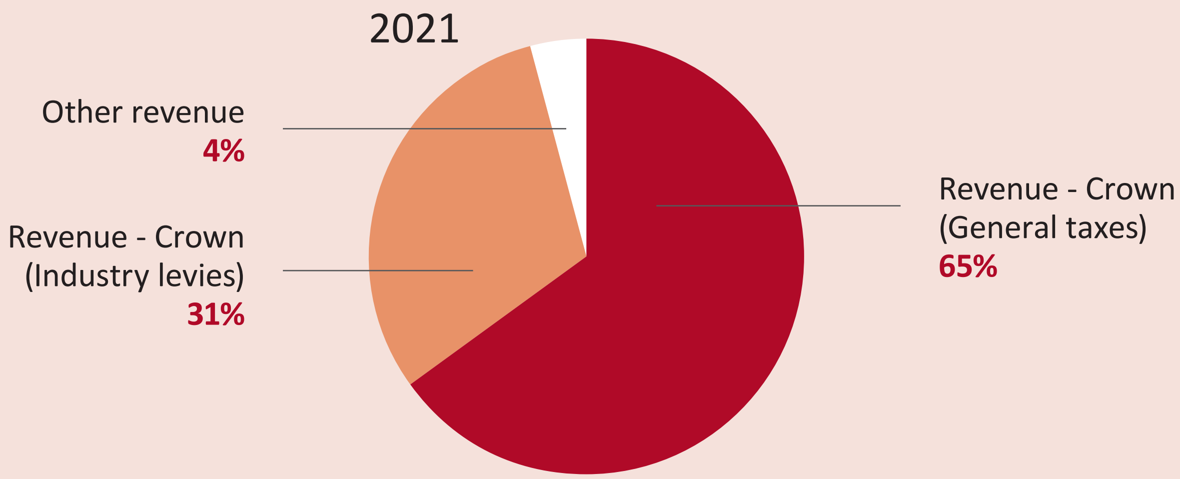


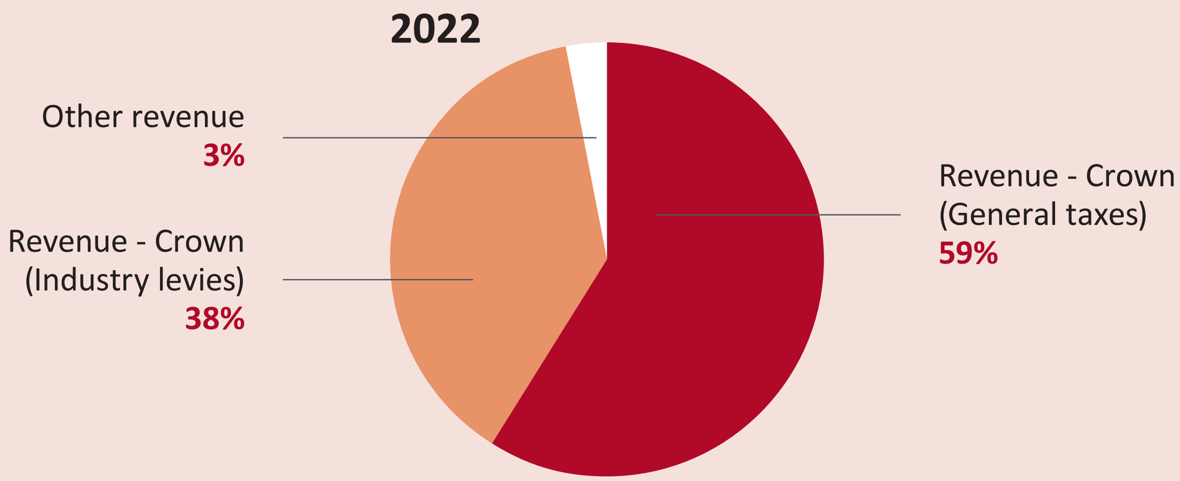
$2.2m

Other revenue – Interest, fees and recoveries

The majority of our revenue is from the Crown and is provided to us from appropriations under *Vote Business, Science and Innovation*. Revenue from the Crown is sourced from both general taxes and levies charged directly to businesses in regulated industries.

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.





In 2021/22, the proportion of the Commission's revenue sourced from general taxes decreased to 59% (65% in 2020/21) while the proportion of revenue sourced from industry levies increased to 38% (31% in 2020/21).

This brings the proportion of levy funding in 2021/22 in line with financial years prior to 2020/21.

In 2020/21, we received additional Crown revenue from the baseline funding review but were not able to undertake the levy funding review, which ensures that industry levies are charged at an appropriate level to recover the costs of regulation.

The proportion of revenue received from other sources in 2021/22 remained similar compared to the prior year.

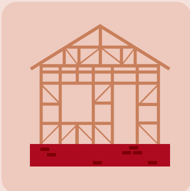
Other revenue decreased slightly in 2021/22 due to having received higher fees and recoveries in 2020/21 from Aurora Energy's customised price-quality path application.

This reduction was partially offset by receiving new registry application fee revenue from our new credit certification function as well as interest on term deposits almost doubling compared to 2020/21 mainly due to higher interest rates.

Expenditure

Our expenditure for 2021/22

Activities funded from general taxes

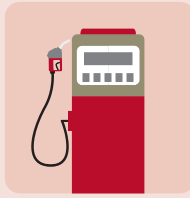


$13.6m
Competition

$20.5m
Consumer

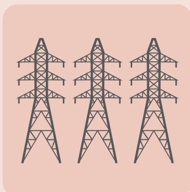
$7.5m
Litigation

$2.7m
Market Studies



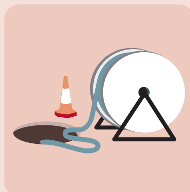
$3.4m
Fuel

Activities funded from industry levies

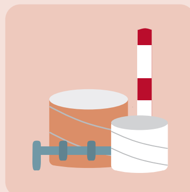


$6.2m
Electricity

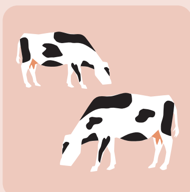
$8.0m
Telecommuni-cations



$5.3m
Fibre

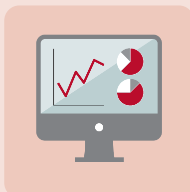


$3.7m
Gas



$0.6m
Dairy

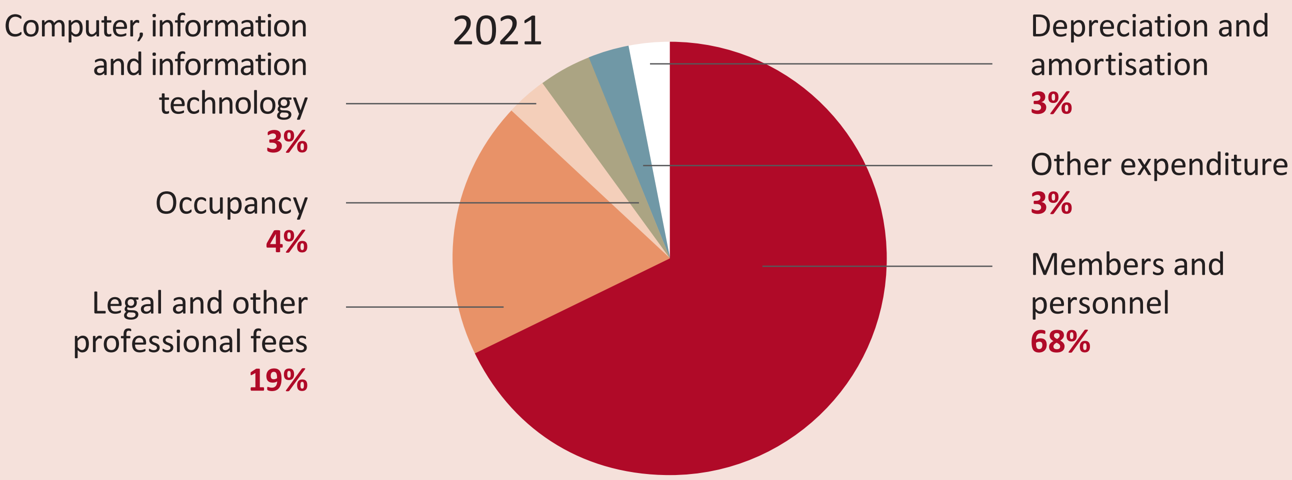
$0.4m
Airports

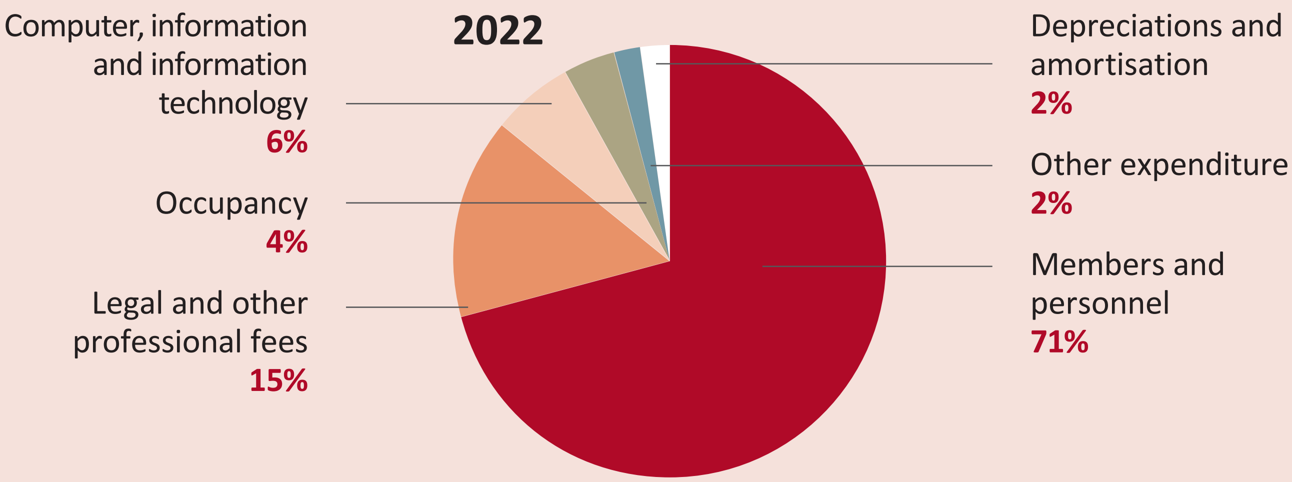


$0.4m
Input Methodologies

The Commission spent $69.4 million in 2021/22 compared to a budgeted spend of $83.9 million and a prior-year spend of $58.9 million. Expenditure on personnel was significantly higher than last year as our increasing responsibilities required us to recruit more staff to deliver the work programme. Legal and other professional fees decreased compared to last year due to expenditure on external consultants and major litigation costs being lower than anticipated.

Computer, information, and information technology costs increased compared to both prior year and budget due to higher software expenditure. This was due to expensing costs relating to software-as-a-service arrangements that were previously capitalised following recent clarification of accounting standards (see note 8 for details).





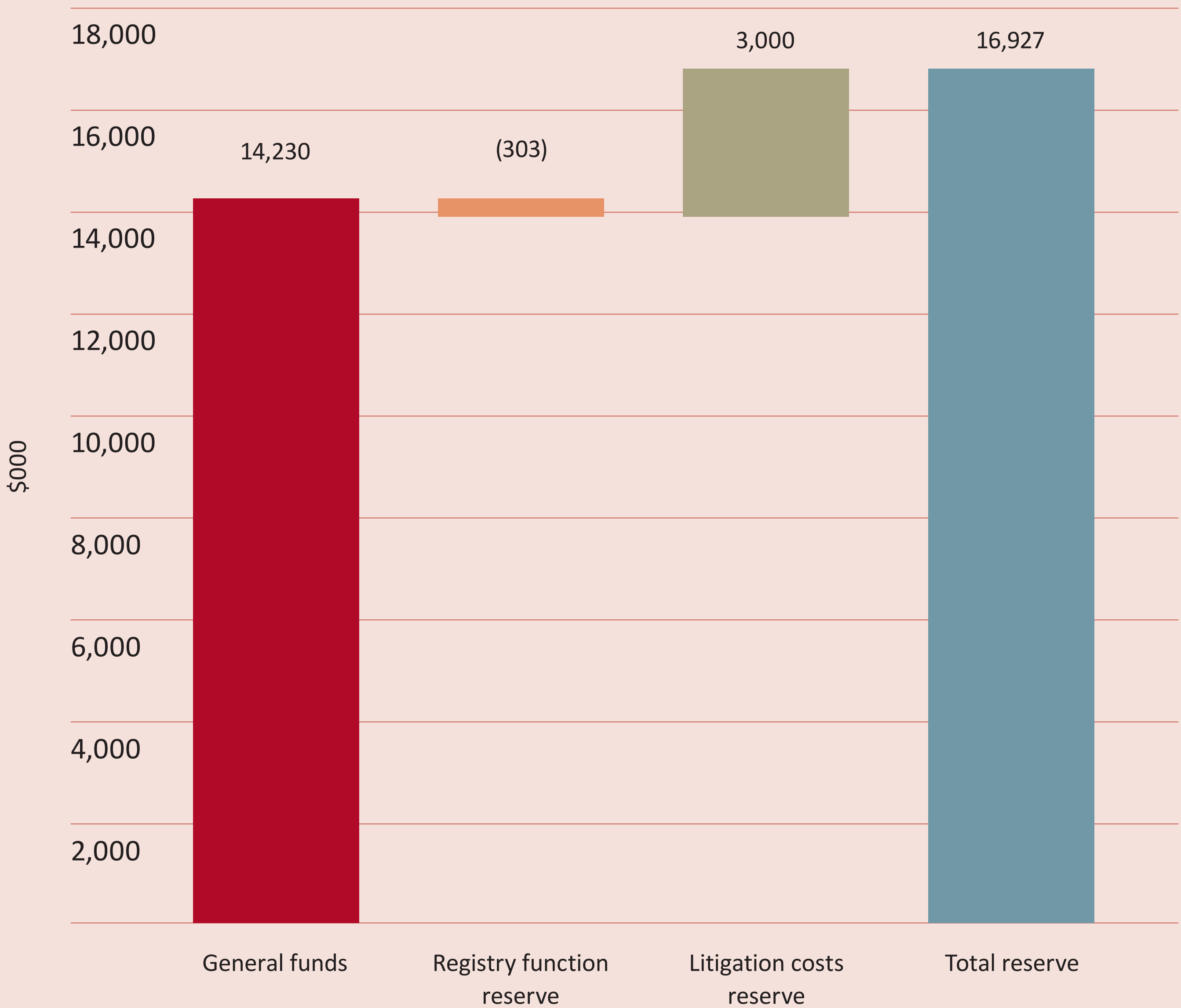
The investigative and analytical nature of much of our work meant that wages and salaries made up just over 71% of our 2021/22 expenditure. This percentage increased slightly from 2020/21 and prior years, reflecting the increase in our workforce to manage additional functions, responsibilities and related activities since 2017/18. Expenditure on associated costs of additional staff such as occupancy costs, computer and IT infrastructure and other back-office support functions all grew proportionately.

Financial position

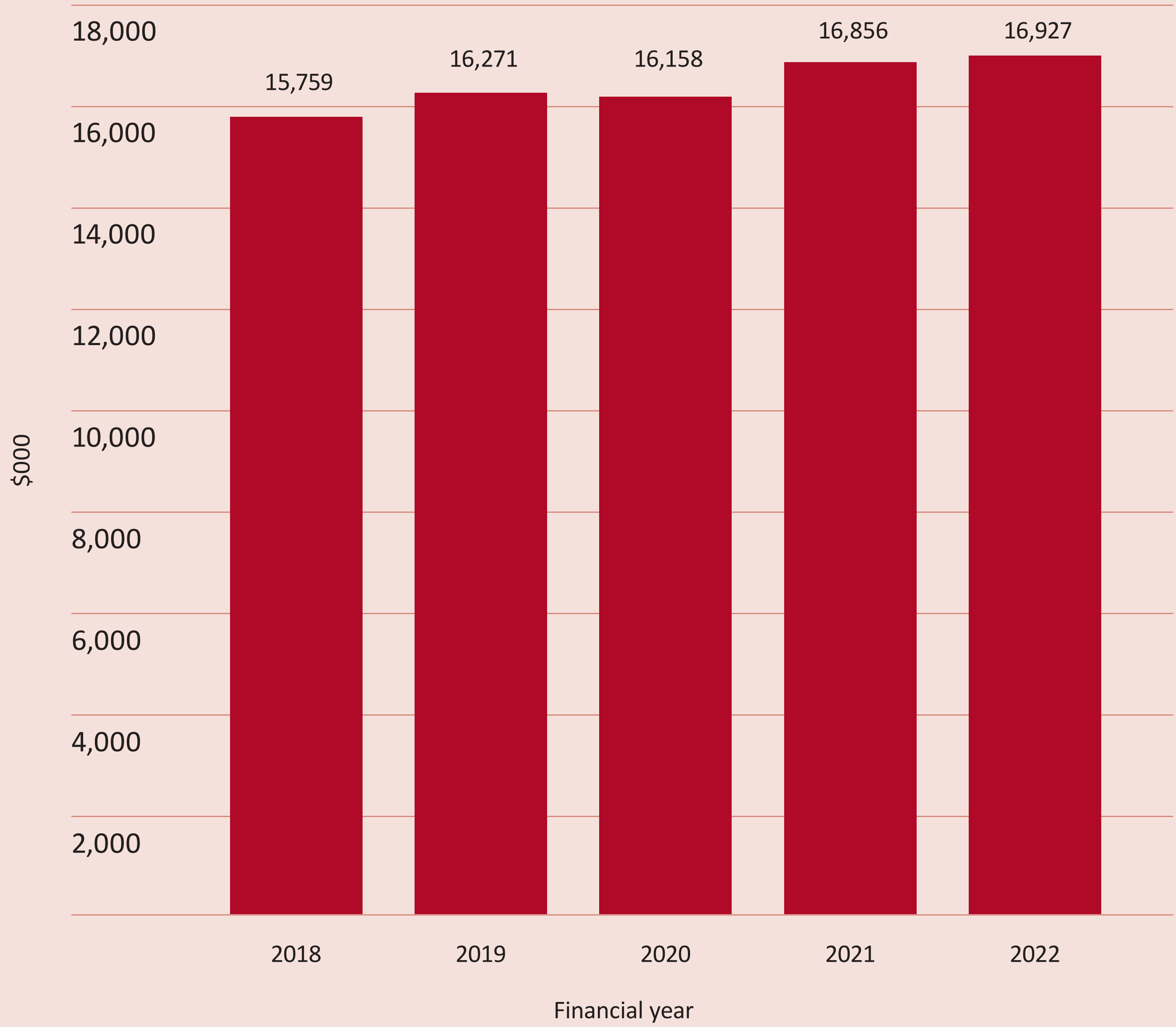
The Commission's reserves are made up of three components. The first is a litigation costs reserve, which is a ring-fenced reserve to help the Commission meet the costs payable in losing a significant litigation case (being a contribution towards the costs of the other successful party). Our general fund manages the other broader risks described above (including where the litigation costs reserve is insufficient) and also allows the Commission to invest in fixed assets and intangible assets. Our new registry function reserve was established to collect the accumulated surpluses and deficits of processing fit and proper person applications under the Credit Contracts and Consumer Finance Act 2003.

We maintain reserves at a level that allows us to manage litigation risks and other financial risks. These risks are diverse but can involve significant, unanticipated expenditures in a relatively short timeframe. For instance, if we lose a large multi-party litigation case, we may have to pay sizeable adverse cost awards to the successful parties.

Commission reserves as at 30 June 2022



Commission reserves from 2018 to 2022



The Commission's equity (or reserves) as at 30 June 2022 is $16.9 million (30 June 2021: $16.9 million). This was due to a $3.4 million increase in general funds from net surpluses on our competition, consumer and fuel output classes in 2021/22 offset by a $3.0 million repayment of reserves to the Crown and a net deficit of $0.3 million for the new registry function reserve due to the costs of operating the registry function exceeding application fee revenue in the first year of operation.

Statement of responsibility
Tauākī Haepapatanga

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

We are also responsible for any end-of-year performance information provided by the Commission under section 19A of the Public Finance Act 1989, whether or not that information is included in the Commission's Annual Report.

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

In the Board's opinion, these financial statements and the statement of performance reflect a true and fair view of the financial position and results of the operations of the Commission for the year ended 30 June 2022.

Signed on behalf of the Board:

[redacted]

John Small

Chair – Commerce Commission

21 December 2022

[redacted]

Sue Begg

Deputy Chair – Commerce Commission

21 December 2022

Independent auditor’s report
Te pūrongo a te kaitātari kaute motuhake

Independent Auditor's Report

To the readers of Commerce Commission's financial statements and performance information for the year ended 30 June 2022

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

Opinion

We have audited:

- the financial statements of the Commission on pages 136 to 157, that comprise the statement of financial position as at 30 June 2022, the statement of comprehensive revenue and expenses, statement of changes in equity, statement of cash flows and statement of accounting policies for the year ended on that date and the notes to the financial statements including other explanatory information; and
- the performance information of the Commission on pages 31, 32, 43, 44, 45, 47, 49, 50, 51, 54, 62, 63 and 68 to 89.

In our opinion:

- the financial statements of the Commission on pages 136 to 157:
    - present fairly, in all material respects:
        - its financial position as at 30 June 2022; and
        - its financial performance and cash flows for the year then ended; and
    - comply with generally accepted accounting practice in New Zealand in accordance with Public Benefit Entity Reporting Standards; and
- the performance information on pages 31, 32, 43, 44, 45, 47, 49, 50, 51, 54, 62, 63 and 68 to 89:
    - presents fairly, in all material respects, the Commission's performance for the year ended 30 June 2022, including:
        - for each class of reportable outputs:

        - its standards of delivery performance achieved as compared with forecasts included in the statement of performance expectations for the financial year; and

        - its actual revenue and output expenses as compared with the forecasts included in the statement of performance expectations for the financial year; and

    - what has been achieved with the appropriations; and

    - the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure.

- complies with generally accepted accounting practice in New Zealand.

Our audit was completed on 21 December 2022. This is the date at which our opinion is expressed.

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

Basis for our opinion

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.

- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Board.

- We evaluate the appropriateness of the reported performance information within the Commission's framework for reporting its performance.

- We conclude on the appropriateness of the use of the going concern basis of accounting by the Board and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor’s report to the related disclosures in the financial statements and the performance information or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor’s report. However, future events or conditions may cause the Commission to cease to continue as a going concern.

- We evaluate the overall presentation, structure and content of the financial statements and the performance information, including the disclosures, and whether the financial statements and the performance information represent the underlying transactions and events in a manner that achieves fair presentation.

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

Our responsibilities arise from the Public Audit Act 2001.

Other information

The Board are responsible for the other information. The other information comprises the information included on pages 1 to 163 but does not include the financial statements and the performance information, and our auditor’s report thereon.

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

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

Independence

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

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

Karen Young

Karen Young
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

Financial statements
Ngā tauākī pūtea

Statement of comprehensive revenue and expense

for the year ended 30 June 2022

	Notes	2021/22 Actual	2021/22 Budget	2020/21 Actual
Operating revenue				
Revenue from non-exchange transactions				
Revenue – Crown		70,132	81,941	57,446
Court cost awards		60	100	0
Total revenue from non-exchange transactions		70,192	82,041	57,446
Revenue from exchange transactions				
Fees and recoveries		1,306	1,996	1,476
Interest		404	150	212
Other revenue		508	122	430
Total revenue from exchange transactions		2,218	2,268	2,118
Total operating revenue		**72,410**	**84,309**	**59,564**
Operating expenses				
Members and personnel	1	49,322	52,314	39,871
Legal and other professional fees	2	10,446	21,920	11,128
Computer, information, and information technology		3,932	2,445	1,891
Occupancy	3	2,688	2,922	2,412
Depreciation and amortisation		1,258	1,831	1,871
Other expenditure	4	1,693	2,471	1,693
Total operating expenses		**69,339**	**83,903**	**58,866**
Surplus		**3,071**	**406**	**698**
TOTAL COMPREHENSIVE REVENUE AND EXPENSE		**3,071**	**406**	**698**

The accompanying statement of accounting policies and notes to the financial statements on pages 140 to 157 form part of the financial statements.

Statement of changes in equity

for the year ended 30 June 2022

	Notes	2021/22 Actual $000	2021/22 Budget $000	2020/21 Actual $000
Balance at 1 July		**16,856**	**17,215**	**16,158**
Comprehensive revenue and expense				
Surplus		3,071	406	698
Total comprehensive revenue and expense		**3,071**	**406**	**698**
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		**16,927**	**17,621**	**16,856**

The accompanying statement of accounting policies and notes to the financial statements on pages 140 to 157 form part of the financial statements.

Statement of financial position

as at 30 June 2022

	Notes	2021/22 Actual $000	2021/22 Budget $000	2020/21 Actual $000
Equity				
General funds	5	14,230	14,215	13,856
Registry function reserve	5	(303)	406	0
Litigation cost reserve	5	3,000	3,000	3,000
Total equity		**16,927**	**17,621**	**16,856**
Current assets				
Cash and cash equivalents	6	4,437	5,413	12,084
Fees and recoveries receivable		390	50	69
Crown funding receivable		0	0	714
Short-term investments		25,000	14,000	8,000
Prepayments		1,231	1,250	1,194
Total current assets		**31,058**	**20,713**	**22,061**
Non-current assets				
Property, plant and equipment	7	3,398	2,573	2,955
Intangibles	8	104	1,682	1,201
Total non-current assets		**3,502**	**4,255**	**4,156**
Total assets		**34,560**	**24,968**	**26,217**
Current liabilities				
Creditors and other payables	9	1,513	1,792	1,102
Accrued expenses		1,167	936	1,607
Lease incentive		170	170	170
Penalties and cost awards held in trust	10	183	50	95
Crown funding repayable	11	9,805	8	2,095
Employee entitlements	12	4,115	3,711	3,442
Total current liabilities		**16,953**	**6,667**	**8,511**
Non-current liabilities				
Lease incentive		680	680	850
Total non-current liabilities		**680**	**680**	**850**
Total liabilities		**17,633**	**7,347**	**9,361**
NET ASSETS		**16,927**	**17,621**	**16,856**

The accompanying statement of accounting policies and notes to the financial statements on pages 140 to 157 form part of the financial statements.

Statement of cash flows

for the year ended 30 June 2022

	Notes	2021/22 Actual $000	2021/22 Budget $000	2020/21 Actual $000
Cash flows from operating activities				
Crown funding received		85,358	82,600	62,167
Fees and recoveries received		1,710	2,239	1,963
Receipts and prepayment of penalties (net)		88	0	(29)
Interest received		246	148	287
Commissioners, Associates and personnel payments		(48,552)	(51,669)	(38,299)
Supplier payments		(17,966)	(29,913)	(17,464)
Repayment of Crown funding		(6,896)	(2,169)	(6,513)
Goods and services tax (net)		174	199	(82)
Net cash inflow from operating activities	13	**14,162**	**1,435**	**1,030**
Cash flows from investing activities				
Investments (deposits)/receipts		(17,000)	0	5,098
Property, plant and equipment purchases		(1,567)	(707)	(751)
Intangible asset purchases		(242)	(1,145)	(365)
Net cash (outflow)/inflow from investing activities		**(18,809)**	**(1,852)**	**3,982**
Cash flows from financing activities				
Repayment of reserves		(3,000)	0	0
Net cash (outflow)/inflow from financing activities		(3,000)	0	0
Net (decrease)/increase in cash and cash equivalents		**(7,647)**	**(417)**	**5,012**
Opening cash and cash equivalents		12,084	5,830	7,072
CLOSING CASH AND CASH EQUIVALENTS	6	**4,437**	**5,413**	**12,084**

The GST (net) component of operating activities reflects the net GST paid and received from the Inland Revenue Department (IRD). We have presented the GST component on a net basis, as the gross amounts do not provide meaningful information for financial statement purposes.

We have presented receipts and payment of penalties and cost awards as a net item because the Commission holds these funds in trust in accordance with agreements.

The accompanying statement of accounting policies and notes to the financial statements on pages 140 to 157 form part of the financial statements.

Statement of accounting policies
Tauākī kaupapa kaute

for the year ended 30 June 2022

Reporting entity

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

The Commission's main objective is to provide services to the Aotearoa New Zealand public rather than making a financial return. We provide public services to meet our responsibilities under the Commerce Act 1986, the Fair Trading Act 1986, the Dairy Industry Restructuring Act 2001, the Telecommunications Act 2001, the Fuel Industry Act 2020, the Credit Contracts and Consumer Finance Act 2003 and the Retail Payment System Act 2022.

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 (XRB) because we are a public entity as defined in the Public Audit Act 2001.

Measurement base and statement of compliance

These financial statements comply with the requirements of the Crown Entities Act and are prepared on a historical cost basis for a going concern in accordance with New Zealand generally accepted accounting practice (GAAP) to comply with Tier 1 PBE accounting standards. The Commission authorised the financial statements for issue on 21 December 2022.

Functional and presentation currency

The Commission's functional and presentation currency is the New Zealand dollar (rounded to the nearest thousand).

Significant accounting policies

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

These are the significant accounting policies:

- **Revenue** – Revenue is measured at the fair value of consideration (eg, money) received or receivable. We earn revenue from providing specific services (known as outputs) for the Crown, services to other third parties, court cost award recoveries and interest revenue.
- **Revenue – Crown** – The Commission receives funding via appropriations from the Crown. Revenue – Crown is a form of non-exchange transaction because there is no direct relationship between the services we provide (funded through taxation and levies) and the general public we ultimately provide the services to. Our funding is restricted in its use for the purpose of meeting the Commission's objectives and the scope of the relevant appropriations. Revenue – Crown we receive but do not spend is refunded to the Crown after year end for all output classes except *Vote Business, Science and Innovation: Enforcement of General Market Regulation*, which the Commission is allowed to retain as reserves. Also, we may retain specific ring-fenced revenue provided to build up our ability to meet the cost of adverse cost awards. Revenue from the Crown is initially recognised as a liability when received and then as revenue when we have provided services that entitle us to the funding.
- **Expenditure** – All expenditure we incur in providing services for the Crown or other third parties is recognised in the statement of comprehensive revenue and expense when an obligation to pay arises on an accruals basis.
- **Foreign currency transactions** – Transactions in foreign currencies are converted into the Commission's functional currency (New Zealand dollars) at exchange rates on the dates of the transactions. Monetary liabilities in foreign currencies at the reporting date are converted to New Zealand dollars at the exchange rate on that date.
- **Leases** – The Commission is party to various operating leases as a lessee. As the lessors retain substantially all of the risk and rewards of ownership of the leased property, plant and equipment, the operating lease payments are recognised as expenses only in the period in which they arise. Any lease incentives received

or obligations to reinstate the condition of leased premises are recognised in the statement of comprehensive revenue and expense over the term of the lease. At balance date, we recognise any unamortised lease incentive and outstanding obligation for reinstatement as a liability.

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

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

- **Taxation** – The Commission is exempt from income tax under section CW 38 of the Income Tax Act 2007.
- **Cost allocatio**n – Direct costs are charged directly to outputs. Personnel costs are allocated to outputs based on time records. The indirect costs of support groups and corporate overhead costs are charged to outputs based on the budgeted relative time records of each output.
- **Goods and services tax (GST)** – All items in the financial statements are presented exclusive of GST, except for receivables, payables and unearned Revenue – Crown received in advance, which are presented on a GST-inclusive basis. Where we cannot claim a portion of GST, we recognise the GST portion as part of the related asset or expense.
- The net GST recoverable from or payable to the IRD is included as part of receivables or creditors in the statement of financial position and classified as an operating cash flow in the statement of cash flows.
- **Equity** – Equity is the Crown's ownership interest in the Commission and is measured as the difference between total assets and total liabilities. We have classified equity into components and disclosed these separately to allow clearer recognition of the specified uses that we have for our equity.
- **Cash and cash equivalents** – Cash and cash equivalents are our cash on hand, transactional cash balances in bank accounts and some term deposits with maturities of less than 90 days held with Aotearoa New Zealand-registered banks.
- **Investments** – Investments are term deposits issued by Aotearoa New Zealand-registered banks with maturities of more than 90 days. Investments are initially recognised and measured at fair value, usually the amount invested. After initial recognition, investments are measured at amortised cost. A loss allowance for expected credit losses is recognised if the estimated loss allowance is not trivial.
- **Property, plant and equipment** – All items of property, plant and equipment owned are recorded at historical cost of purchase, less accumulated depreciation and any impairment losses. An item of property, plant and equipment acquired in stages is not depreciated until the item of property, plant and equipment is in its final state and ready for its intended use. Any later expenditure that extends the useful life or enhances the service potential of an existing item of property, plant and equipment is also capitalised and depreciated. All other costs to maintain the useful life or service potential of an existing item of property, plant and equipment are recognised as expenditure when incurred. Any gain or loss arising from the sale or disposal of an item of property, plant and equipment is recognised in the period in which the item of property, plant and equipment is sold or disposed of.
- **Intangible assets** – Computer software that is not integral to the operation of the hardware is recorded as an intangible asset, less

accumulated amortisation. Configuration and customisation costs incurred in implementing software-as-a-service (SaaS) arrangements are generally expensed, unless the criteria for recognising a separate asset are met. This is because, in most cases, it is the SaaS provider who controls the software being configured and/or customised rather than the Commission (due to the software being run on the SaaS provider's cloud infrastructure) and therefore not meeting the criteria for control in order to capitalise these costs.

- **Employee entitlements** – Employee entitlements are unpaid salaries, bonuses and annual leave due to our personnel. At balance date, any unpaid employee entitlements are recognised as a liability and charged as an expense. Entitlements are calculated on an actual entitlement basis using current salary rates.
- **Contingencies** – As the Commission is a quasi-judicial body, it is engaged in litigation activity that may result in costs being ordered against or in favour of the Commission. The outcome of an order for costs may not be certain until all appeal processes are complete. Therefore, the possibility of a costs award being incurred or received is disclosed firstly as either a contingent liability or a contingent asset, respectively. An award for costs, whether for or against the Commission, is only recognised in the statement of comprehensive revenue and expense when it is probable that there will be a payment or receipt of agreed costs that can be measured reliably.
- **Comparatives** – To ensure consistency with the current year, all comparative information, including the budget, has been restated or reclassified where appropriate. The budget comparatives are those approved by the Commission at the beginning of the year for inclusion as prospective financial statements in our Statement of Performance Expectations. The budget complies with GAAP and used accounting policies consistent with those used to prepare these financial statements.

Changes in accounting policies

The accounting policies adopted are consistent with the previous year, apart from additional clarification of the treatment of intangible asset capitalisation in line with recent clarification issued by the International Financial Reporting Standards (IFRS) Interpretations Committee and Treasury guidance.

Changes to applicable reporting standards and interpretations

An amendment to *PBE IPSAS 2 Cash Flow Statements* requires entities to provide disclosures that enable users of financial statements to evaluate changes in liabilities arising from financing activities, including both changes arising from cash flows and non-cash changes. This disclosure applies to material liabilities with cash flows, which the Commission does not have. Therefore, no new information has been disclosed.

The XRB has issued the following reporting standards, which are applicable to the Commission and not yet effective for the financial year ended 30 June 2022:

PBE IPSAS 41 Financial Instruments replaces PBE IFRS 9 Financial Instruments and is effective for the year ending 30 June 2023, with earlier adoption permitted. We have assessed that there will be little change as a result of adopting the new standard, as the requirements are similar to those contained in PBE IFRS 9.

PBE FRS 48 Service Performance Reporting replaces PBE IPSAS 1 Presentation of Financial Statements and is effective for the year ending 30 June 2023, with earlier adoption permitted. We have assessed the impact of applying the new standard on our service performance reporting standard to be minor. The main impact will be the requirement to disclose significant judgements made regarding the selection, measurement, aggregation, and presentation of service performance information.

Notes to the financial statements
He kōrero tāpiri ki ngā tauākī pūtea

for the year ended 30 June 2022

1. Commissioners, Associates and personnel

	2021/22 Actual $000	2020/21 Actual $000
Salaries and wages (including annual leave and other entitlements)	42,855	35,537
Defined contribution plan employer contributions	1,116	879
Redundancy	0	103
Recruitment	618	275
Professional development	464	385
Other employment-related costs	4,269	2,692
TOTAL COMMISSIONERS, ASSOCIATES AND PERSONNEL EXPENDITURE	**49,322**	**39,871**

Employer contributions to defined contribution plans include payments to KiwiSaver.

2. Legal and other professional fees

	2021/22 Actual $000	2020/21 Actual $000
Legal consultants	4,225	4,560
Other consultants and experts	5,079	5,527
Specialist support services	1,140	1,059
Other expenses	2	(18)
TOTAL LEGAL AND OTHER PROFESSIONAL FEES	**10,446**	**11,128**

3. Occupancy

	2021/22 Actual $000	2020/21 Actual $000
Operating leases – rent	2,281	2,007
Other occupancy expenses	407	405
TOTAL OCCUPANCY	**2,688**	**2,412**

4. Other expenditure

	2021/22 Actual $000	2020/21 Actual $000
Telecommunications	535	541
Travel	316	461
Postage, photocopying and stationery	105	97
Publications and knowledge sharing	58	237
Loss on disposal of assets	24	1
Audit fees for financial statement audit	76	51
Other expenses	579	305
TOTAL OTHER EXPENDITURE	**1,693**	**1,693**

5. Equity

The Commission’s surplus for the year of $3.071 million (2021: surplus of $0.698 million) flows to our general funds and registry function reserve, which equals the Commission’s total comprehensive revenue and expenses for the year. In 2021/22, there were no movements in the litigation costs reserve, which is a separate reserve with a maximum balance of $3 million.

General funds

	2021/22 Actual $000	2020/21 Actual $000
Balance at 1 July	**13,856**	**13,158**
Total comprehensive revenue and expense attributable	3,374	698
Less reserves paid to the Crown	(3,000)	0
BALANCE AT 30 JUNE	**14,230**	**13,856**

The Commission’s general funds are funds held in reserve as a result of past surpluses in certain output classes plus an initial capital contribution from the Crown. During the year, the Commission repaid $3.0 million in reserves to the Crown. The Commission is allowed to retain surpluses from our competition, consumer and fuel output classes.

Litigation costs reserve

	2021/22 Actual $000	2020/21 Actual $000
Balance at 1 July	**3,000**	**3,000**
Total comprehensive revenue and expense attributable	0	0
BALANCE AT 30 JUNE	**3,000**	**3,000**

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

Registry function reserve

	2021/22 Actual $000	2020/21 Actual $000
Balance at 1 July	**0**	**0**
Total comprehensive revenue and expense attributable	(303)	0
BALANCE AT 30 JUNE	**(303)**	**0**

The registry function reserve was established in the financial year ending 30 June 2022 to collect the accumulated surpluses and deficits of processing fit and proper person applications under the Credit Contracts and Consumer Finance Act. The cost of operating the registry function is intended to break even over the five-year certification horizon.

6. Cash and cash equivalents

	2021/22 Actual $000	2020/21 Actual $000
Cash on hand and at bank	4,195	11,989
Cash held in trust	242	95
BALANCE AT 30 JUNE	**4,437**	**12,084**

While cash and cash equivalents at 30 June 2022 are subject to the expected credit loss requirements of PBE IFRS 9, no loss allowance has been recognised because the estimated loss allowance for credit losses is trivial. All cash is held with Aotearoa New Zealand-registered banks with a Standard & Poor's credit rating of AA- or higher.

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

7. Property, plant and equipment

Cost and valuation

	Computer and office equipment $000	Furniture and fittings $000	Leasehold improvements $000	Motor vehicles $000	Total $000
Balance at 1 July 2020	**2,757**	**1,158**	**3,767**	**51**	**7,733**
Additions	620	93	29	0	742
Disposals	(13)	(2)	0	0	(15)
BALANCE AT 30 JUNE 2021	**3,364**	**1,249**	**3,796**	**51**	**8,460**

	Computer and office equipment $000	Furniture and fittings $000	Leasehold improvements $000	Motor vehicles $000	Total $000
Balance at 1 July 2021	**3,364**	**1,249**	**3,796**	**51**	**8,460**
Additions	1,245	149	173	0	1,567
Disposals	(418)	(104)	0	0	(522)
BALANCE AT 30 JUNE 2022	**4,191**	**1,294**	**3,969**	**51**	**9,505**

Property, plant and equipment not yet commissioned at 30 June 2022 totalled nil (2021: $125,000).

Accumulated depreciation and impairment losses

	Computer and office equipment $000	Furniture and fittings $000	Leasehold improvements $000	Motor vehicles $000	Total $000
Balance at 1 July 2020	**1,811**	**861**	**1,610**	**40**	**4,322**
Depreciation expense	642	166	382	6	1,196
Elimination on disposal	(12)	(1)	0	0	(13)
BALANCE AT 30 JUNE 2021	**2,441**	**1,026**	**1,992**	**46**	**5,505**

	Computer and office equipment $000	Furniture and fittings $000	Leasehold improvements $000	Motor vehicles $000	Total $000
Balance at 1 July 2021	**2,441**	**1,026**	**1,992**	**46**	**5,505**
Depreciation expense	641	83	387	5	1,116
Elimination on disposal	(411)	(103)	0	0	(514)
BALANCE AT 30 JUNE 2022	**2,671**	**1,006**	**2,379**	**51**	**6,107**

Carrying amounts

	Computer and office equipment $000	Furniture and fittings $000	Leasehold improvements $000	Motor vehicles $000	Total $000
As at 1 July 2020	946	297	2,157	11	3,411
As at 30 June and 1 July 2021	923	223	1,804	5	2,955
BALANCE AT 30 JUNE 2022	**1,520**	**288**	**1,590**	**0**	**3,398**

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

8. Intangibles

The Commission holds licences for software, including certain applications that have restrictions on their use. No intangible assets are pledged as security for liabilities.

Cost

	TSLRIC models $000	Acquired software $000	Total $000
Balance at 1 July 2020	**1,905**	**4,198**	**6,103**
Additions	0	512	512
Disposals	(1,905)	0	(1,905)
BALANCE AT 30 JUNE 2021	**0**	**4,710**	**4,710**

	TSLRIC models $000	Acquired software $000	Total $000
Balance at 1 July 2021	**0**	**4,710**	**4,710**
Additions	0	117	117
Disposals	0	(4,479)	(4,479)
BALANCE AT 30 JUNE 2022	**0**	**348**	**348**

Intangible assets not yet commissioned at 30 June 2022 totaled nil (2021: $386,000).

The Intangible Asset Register was reviewed for software-as-a-service arrangements that do not meet the requirements for capitalisation following recent clarification released by the IFRS Interpretations Committee in an agenda decision. This resulted in the write-off of intangible assets with a total cost of $2.3 million effective 1 July 2021. The expense on write-off of these intangible assets is included in the Commission's computer, information, and information technology expense for the year.

Additionally, other intangible assets with a total cost of $2.2 million were disposed of during the year due to no longer being in use.

8. As the public sector accounting standards applied by the Commission are closely related to IFRS, we need to consider IFRS agenda decisions as an authoritative source for our application of NZ PBE IPSAS 31 Intangible Assets.

Accumulated amortisation and impairment losses

	TSLRIC models $000	Acquired software $000	Total $000
Balance at 1 July 2020	**1,905**	**2,834**	**4,739**
Amortisation expense	0	675	675
Disposals	(1,905)	0	(1,905)
BALANCE AT 30 JUNE 2021	**0**	**3,509**	**3,509**

	TSLRIC models $000	Acquired software $000	Total $000
Balance at 1 July 2021	**0**	**3,509**	**3,509**
Amortisation expense	0	142	142
Disposals	0	(3,407)	(3,407)
BALANCE AT 30 JUNE 2022	**0**	**244**	**244**

Carrying amounts:

	TSLRIC models $000	Acquired software $000	Total $000
At 1 July 2020	0	1,364	1,364
At 30 June and 1 July 2021	0	1,201	1,201
BALANCE AT 30 JUNE 2022	**0**	**104**	**104**

9. Creditors and other payables

	2021/22 Actual $000	2020/21 Actual $000
Payables under exchange transactions		
Creditors	384	115
Total payables under exchange transactions	384	115
Payables under non-exchange transactions		
PAYE and other taxes withheld for payment to the Crown	596	499
Goods and services tax payable to the Crown	533	488
Total payables under non-exchange transactions	1,129	987
TOTAL CREDITORS AND OTHER PAYABLES	**1,513**	**1,102**

10. Penalties and cost awards held in trust

	2021/22 Actual $000	2020/21 Actual $000
Balance at the beginning of the year	**95**	**702**
Court cost awards compensation received (or recognised as receivable) and interest earned	10,049	65
Infringement fees received (or receivable) and paid to the Crown (net)	0	(5)
Court cost awards, compensation and interest paid out	(9,961)	(667)
BALANCE AT THE END OF THE YEAR	**183**	**95**

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

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

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

Components of penalties and cost awards held in trust

	2021/22 Actual $000	2020/21 Actual $000
Infringement fees due to the Crown (including receivable)	0	0
Court cost awards and compensation due to Crown or other parties	183	95
BALANCE AT THE END OF THE YEAR	**183**	**95**

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

Where there are cases involving several parties, settlements can be received from some parties while others continue to defend. As a result, reliable estimates of total cost awards or settlements due to the Crown are not possible. These estimates can change substantially as the case progresses. In these situations, the Commission records a provision for the cost awards due to the Commission or the Crown that equals any cost awards received for that case. Once a case is finished and the total cost of the case and funds to distribute are known, the amount receivable and the amount due to the Crown are recognised instead of a provision.

If we receive compensation settlements to pay to several third parties (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.

11. Crown funding repayable

	2021/22 Actual $000	2020/21 Actual $000
Airports	760	10
Competition studies	515	636
Dairy	178	148
Electricity	2,093	0
Fuel	575	18
Fibre	526	0
Gas	777	482
Telecommunications	1,415	179
Litigation Fund	1,721	622
Economic regulation inquiries	1,150	0
Input methodologies	95	0
TOTAL CROWN FUNDING REPAYABLE	**9,805**	**2,095**

The Commission receives funding from the Crown via appropriations. This funding is recognised as revenue only to the extent that expenditure is incurred in the output classes we are funded for. Where there is a difference between the funding received and the amount of revenue subsequently recognised, that difference is recognised as a Crown funding repayable liability and must be repaid to the Crown. The above note provides a breakdown of our Crown funding repayable liability by output class.

12. Employee entitlements

	2021/22 Actual $000	2020/21 Actual $000
Accrued salaries and wages	1,017	730
Annual leave	2,918	2,243
Accrued performance and at-risk incentives	180	469
TOTAL EMPLOYEE ENTITLEMENTS	**4,115**	**3,442**

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

	2021/22 Actual $000	2020/21 Actual $000
Operating surplus for the year	**3,071**	**698**
Non-cash items:		
Depreciation and amortisation	1,258	1,871
Lease incentives recognised	(170)	(170)
Total non-cash items	**1,088**	**1,701**
Items classified as investing or financing activities:		
Loss on sale of property, plant and equipment	1,080	2
Total items classified as investing or financing activities	**1,080**	**2**
Change in statement of financial position items		
Fees and recoveries receivable	393	(6)
Prepayments	(37)	(385)
Creditors	411	(251)
Accrued expenses	(314)	543
Crown funding repayable	7,709	(1,171)
Penalties and cost awards held in trust	88	(607)
Employee entitlements	673	506
Total change in statement of financial position items	**8,923**	**(1,371)**
NET CASH INFLOWS FROM OPERATING ACTIVITIES	**14,162**	**1,030**

14. Critical accounting judgements and estimates

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

- all specific accounting policies needed to properly understand these financial statements are disclosed
- all adopted accounting policies are appropriate
- all accounting policies were applied consistently throughout the year.

When applying the accounting policies, the Commission is required to make certain judgements and estimates.

Contingencies

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

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

Cost awards that are likely to result in a future receipt or payment of cost awards have been recognised as at 30 June 2022 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 2022 (see note 16).

15. Going concern assumption

There is no information to suggest that the Commission needs to update its going concern assumption. While COVID-19 continued to have a global impact in 2021/22, the Commission has assessed that COVID-19 has minimal impact on its financial performance and position and ability to operate into the future. Crown funding of the Commission's operations continues unaffected, and the Commission retains adequate financial reserves to manage the effect of a variety of future financial shocks if required.

16. Contingent liabilities and assets

The Commission regularly has several matters before the court that may lead to future assets or future liabilities. Where no judgment has been issued in a proceeding, our general presumption is that the outcome is rarely sufficiently predictable to register the case as giving rise to either a contingent asset or liability.

Litigation cases in which the Commission is involved are either civil cases (either as prosecutor or as a defendant when other parties appeal our decisions) or criminal prosecutions. Criminal prosecutions under the Fair Trading Act, Credit Contracts and Consumer Finance Act, sections 80E, 82B, 86B, 87B, 100 and 103 of the Commerce Act and the Crimes Act 1961 are not disclosed, because if the Commission is successful, any cost awards are payable to the Crown. Similarly, if the Commission is unsuccessful in criminal prosecutions, very rarely will costs be ordered against the Commission. If costs are ordered against the Commission, the costs are paid by the Crown.

Penalties are not recognised as contingent assets of the Commission, as any civil penalties received by the Commission will be transferred in full to the Crown (via the Ministry of Business, Innovation and Employment) within seven days of receipt.

- **Contingent liabilities as at 30 June 2022**
  There are no contingent liabilities.
- **Contingent liabilities as at 30 June 2021**
  There were no contingent liabilities.
- **Contingent assets as at 30 June 2022**
  Major Gas Users Group
  The Major Gas Users Group has appealed the Commission's determination amending the input methodologies for gas pipeline businesses for the 2022 default price-quality paths to the High Court. The Commission is defending the appeal. The appeal is set to be heard in July 2023, and there is likely to be a cost award in the Commission's favour (estimated to be in the order of $100,000) if the Commission is successful. If the Commission is unsuccessful, there is some chance of a cost award against the Commission.
- **Contingent assets as at 30 June 2021**
  There were no contingent assets.

17. Financial instruments

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

Monetary assets

	2021/22 Actual $000	2020/21 Actual $000
Financial assets measured at amortised cost		
Cash and cash equivalents	4,437	12,084
Fees and recoveries receivable	390	69
Short-term investments	25,000	8,000
TOTAL MONETARY ASSETS	**29,827**	**20,153**

Monetary liabilities

	2021/22 Actual $000	2020/21 Actual $000
Financial liabilities measured at amortised cost		
Creditors	1,513	1,102
Penalties and cost awards held in trust	183	95
Crown funding repayable	9,805	2,095
TOTAL MONETARY LIABILITIES	**11,501**	**3,292**

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 and the Commission actively manages its cash position, the Commission does not have a material risk in meeting its day-to-day obligations as they fall due.

Credit risk

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

The Commission does not have a material credit risk for receivables due from third parties. All other receivables are due from the Crown. Cash not immediately needed to settle obligations as they fall due is placed on term deposit. All cash, cash equivalents and term deposits are invested with Aotearoa New Zealand-registered banks with a Standard & Poor's credit rating of AA- or higher. Limits are in place restricting deposit terms, individual deposit amounts, currency and the level of deposits with any one registered bank. The Commission is not exposed to any concentrations of credit risk other than an exposure to the Aotearoa New Zealand banking sector. No collateral is required to be held as security against amounts owed to the Commission.

Interest rate risk

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

The financial instruments carrying amount closely approximates their fair values as at 30 June 2022 and 30 June 2021. The average interest rate on interest-bearing term deposits over the year was 1.12% (2021: 1.75%). A 1% (100 basis points) change in interest rates, with all other factors unchanged, would change interest earnings by $287,400 (2021: $110,600).

Currency risk

Currency risk results from fluctuations in the value of future cash outflows because of changes in foreign exchange rates. The Commission engages overseas experts and purchases specialist goods and services from foreign suppliers, requiring payment in a range of foreign currencies. The transactions are not hedged and are translated into New Zealand dollars at the exchange rate (spot) obtained when the invoices are paid. With all other factors unchanged, a 10% increase in exchange rates would decrease expenditure by $106,900 (2021: $95,700), while a 10% decrease in exchange rates would increase expenditure by $113,900 (2021: $116,900).

18. Operating (non-cancellable) leases

Operating (non-cancellable) lease payments due

	2021/22 Actual $000	2020/21 Actual $000
Within 1 year	2,523	2,456
Within 1 to 2 years	1,885	2,429
Within 2 to 5 years	4,995	5,357
After 5 years	0	1,634
TOTAL OPERATING (NON-CANCELLABLE) LEASES DUE	**9,403**	**11,876**

The future operating (non-cancellable) lease payments consists of the contractual amounts due for leased premises, car parks and office equipment, being the monthly rent plus our share of operating expenses.

The Commission leases offices in Auckland and Wellington. The Wellington lease is up for renewal in 2027 with the right to renew for a further term of six years. There are three leases for the Auckland office. One of the Auckland leases is due to expire in 2025. The other two leases are up for renewal in 2025 with the right to renew for a further term of four years (although both have a break right in 2023). The Commission will not make any decisions on renewal in Wellington and Auckland until closer to the initial term expiry.

19. Capital expenditure commitments

	2021/22 Actual $000	2020/21 Actual $000
Furniture and fittings	144	0
Leasehold improvements	0	85
TOTAL CAPITAL EXPENDITURE COMMITMENTS	**144**	**85**

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 the Digital Economy and Communications.

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 have not been disclosed.

There were no other related-party transactions during the year (2021: nil).

Key management personnel

	2021/22 Actual $000	2020/21 Actual $000
Commissioners and Associates remuneration	3,316	3,104
Senior Leadership Team remuneration	2,542	1,743
TOTAL KEY MANAGEMENT PERSONNEL REMUNERATION	**5,858**	**4,847**

	2021/22 Actual No. of FTEs	2020/21 Actual No. of FTEs
Commissioners and Associates	7.4	7.0
Senior Leadership Team	8.3	5.7
TOTAL KEY MANAGEMENT PERSONNEL FULL-TIME EQUIVALENTS	**16.8**	**12.7**

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

21. Capital management

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

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

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

22. Significant events after balance date

As an enforcement agency and regulator, the Commission is regularly involved in litigation and often has a large number of matters before the court. Several financially insignificant matters have been progressed or finalised by 21 December 2022. Significant matters are disclosed below.

Objective Corporation Limited; Master Business Systems Limited

On 29 July 2022, the High Court ordered Objective Corporation Limited (Objective) to pay a $1.54 million civil penalty in respect of its acquisition of Master Business Systems Limited (MBS). Objective admitted that its acquisition of MBS substantially lessened competition for the supply of software for building consent authorities to assist in and digitise the building consent process, in breach of section 47 of the Commerce Act 1986. This penalty was paid during August 2022 and transferred in full to the Crown (via the Ministry of Business, Innovation and Employment) within seven days of receipt. This is a non-adjusting event after the reporting period.

Vector Limited

On 2 September 2022, the Commission filed civil proceedings against electricity lines company Vector Limited (Vector) in respect of default price-quality path contraventions for the four years from 2017 to 2020. The Commission is seeking the imposition by the High Court of financial penalties on Vector for failing to meet its network quality standards. Vector has co-operated with the Commission's investigation and confirmed it will not challenge the proceedings. A jointly agreed penalty recommendation has been made, and the Commission is awaiting a hearing date for the case. No cost awards have been sought. This is a non-adjusting event after the reporting period.

23. Explanation of significant variances against budget

Significant variations from the budgeted figures in the *Statement of Performance Expectations 2021/22* are set out in the table below. Explanations for each variance are found underneath.

	Note	2021/22 Actual $000	2021/22 Budget $000	Variance $000
Statement of comprehensive revenue and expense				
Revenue – Crown	1	70,132	81,941	(11,809)
Fees and recoveries	2	1,306	1,996	(690)
Commissioners, Associates and personnel	3	49,322	52,314	(2,992)
Legal and other professional fees	4	10,446	21,920	(11,474)
Computer, information, and information technology	5	3,932	2,445	1,487
Statement of changes in equity				
Repayment of reserves to the Crown	6	(3,000)	0	(3,000)
Statement of financial position				
Short-term investments	7	25,000	14,000	11,000
Intangibles	8	104	1,682	(1,578)
Crown funding repayable	9	9,805	8	9,797
Statement of cash flows				
Crown funding received	10	85,358	82,600	2,758
Commissioners, Associates and personnel payments	11	(48,552)	(51,669)	3,117
Supplier payments	12	(17,966)	(29,913)	11,947
Repayment of Crown funding	13	(6,896)	(2,169)	(4,727)
Investment (deposits)/receipts	14	(17,000)	0	(17,000)
Repayment of reserves	15	(3,000)	0	(3,000)

Explanatory notes

1. *Revenue – Crown was $11.8 million less than budgeted due to underspends across all output classes except for competition and consumer. This was due to less major litigation activity than expected, COVID-related delays to our work programme and resourcing constraints due to tight conditions in the labour market.*
2. *Fees and recoveries were $0.7 million less than budgeted primarily due to receiving fewer fit and proper person applications than budgeted in the first year, which resulted in lower registry application fee revenue.*
3. *Commissioners, Associates and personnel expenses were $3.0 million less than budgeted as a result of higher vacancies along with additional staff starting later than originally planned. This was partially offset by temporary staff costs and recruitment expenses being greater than budgeted due to tight conditions in the labour market.*
4. *Legal and other professional fees were $11.5 million less than budgeted due to lower litigation-related expenditure as a result of several factors, including but not limited to cases settling and slower progress through the courts than anticipated, along with expenditure on external consultants being less than budgeted.*
5. *Computer, information, and information technology costs were $1.5 million greater than budgeted due to higher than expected software support costs and expensing costs relating to software-as-as-service (SaaS) arrangements that were previously capitalised, following recent clarification of accounting standards (see note 8).*
6. *Repayments of reserves to the Crown was $3.0 million greater than budgeted due to the Commission repaying $3.0 million of reserves to the Crown.*
7. *Short-term investments were $11.0 million greater than budgeted as a result of having more funds invested in term deposits at year end.*
8. *Intangibles were $1.6 million less than budgeted primarily due to expensing SaaS arrangements that do not meet the recently clarified requirements for capitalisation (see note 8 for details) along with capital spending being lower than planned.*
9. *Crown funding repayable was $9.8 million greater than budgeted as funding received for output classes was overall greater than expenditure against those output classes.*
10. *Crown funding received was $2.8 million greater than budgeted primarily due to various adjustments in the timing of funding receipts.*
11. *Commissioners, Associates and personnel payments were $3.1 million less than budgeted as a result of higher vacancies along with additional staff starting later than originally budgeted (see variance explanation 3 above).*
12. *Supplier payments were $11.9 million less than budgeted due to general underspends across most of our output classes.*
13. *Repayment of Crown funding was $4.7 million greater than budgeted primarily due to making a repayment of excess major litigation funding during the year.*
14. *Investment deposits were $17.0 million greater than budgeted due to more funds being held in short-term investments than expected at year end (see variance explanation 7 above).*
15. *See variance explanation 6 above.*

Glossary
Ngā kupu waiwai

Financial statements glossary
Kuputaka mō ngā tauākī pūtea

The following table provides definitions of some terms 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 or necessarily reflect the way that we interpret and apply accounting standards.

Accounts payable	Debts owed to somebody (for example, a company) for goods or services provided to us that we have not yet paid at balance date.
Accounts receivable	Debts owed to us by somebody (for example, a company) for a service we have provided where we have not been paid at balance date.
Amortisation	Amortisation is basically the same as depreciation (see below), except that it is applied to intangible assets (for example, software).
Asset	An asset is something we own, expect to receive in the future or control.
Balance date	The date at which a set of accounts is prepared. For the Commission, that date is 30 June of each year.
Cash equivalents	Cash equivalents are assets like term deposits that share most of the characteristics of cash. They are cash equivalent because we can quickly turn them into cash, but they are technically not cash in a bank account or in the hand.
Comprehensive revenue and expense	Comprehensive revenue and expense is a broader concept of revenue that includes a surplus (or loss) from an entity's operations and movements in parts of equity that aren't the result of surpluses or owner transactions. An example is a revaluation gain on the value of assets, which increases equity by increasing the value of an asset revaluation reserve.
Current asset (or liability)	A current asset is an asset that can be converted into cash or used to pay a liability within 12 months. A current liability is a liability that we expect to repay within 12 months.
Depreciation	Depreciation is the charge of an asset's cost over a certain time period. Depreciation recognises that assets decline in their value and usefulness over time.
Equity	Equity represents the value of an entity to its owners and is the amount left over after deducting all liabilities from all assets. It is also known as net assets.
Exchange transactions	Exchange transactions are transactions where goods or services are received in exchange for payment of approximately equal value. The vast majority of transactions in everyday life are exchange transactions.
Financial instruments	Financial instruments are assets or liabilities that are tradable in some way such as cash, shares or loans. Other financial instruments include derivatives, which are traded securities that get their value from an underlying asset (for example, a future oil shipment or a future foreign currency purchase).

Generally accepted accounting practice (GAAP)	GAAP is the series of standards, interpretations and concepts that are followed by accountants. New Zealand 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, the entity has to prepare its accounts as if it is being wound up.
Intangible assets	Intangible assets are assets that do not have a physical substance and are not cash.
Liability	A liability is something we owe, expect to pay in the future or may have to pay in the future.
Monetary assets	Monetary assets are assets that are cash or will become cash in a short timeframe (for example, bank account balances, term deposits and accounts receivable).
Monetary liabilities	Monetary liabilities are debts owed to another party such as accounts payable, loans or unpaid salaries.
Non-current asset (or liability)	A non-current asset is an asset we cannot ordinarily turn into cash within 12 months. A non-current liability is a liability we would not ordinarily have to repay within 12 months.
Output class	An output class is a grouping of similar outputs or activities with similar objectives. The Commission's output classes are primarily funded by appropriations from the Crown via the Ministry of Business, Innovation and Employment.
Provision	An estimate of an amount that an entity may (or will) have to pay as a result of an obligation the entity has to another party.
Public benefit entity (PBE)	An entity that aims to provide goods or services to the general public to meet a specific need rather than to make a profit for its owners.
Related party	Another person or entity that is related to us because of, for example, a common owner or person in a position of authority (for example, a director or senior management).
Statement of cash flows	A statement that shows how much cash we have received from various sources (for example, investments, operating activities and cash injections received from the Crown) and cash payments we have made (for example, expenses, salaries and repayment of money to the Crown).
Statement of comprehensive revenue and expense	A statement that shows our surplus or deficit from our operating activities plus or less any movements in non-owner equity items. This is the public sector equivalent of a statement of comprehensive income, which we used to prepare.
Statement of financial position	A statement showing what assets we own or control, what liabilities we have and the remainder (equity) at the balance date.
TSLRIC model	A telecommunications costing model developed to determine pricing for copper broadband networks in New Zealand, based on forward-looking costs over the long run. TSLRIC stands for total service long-run incremental cost.

Commonly used terms and acronyms

Ngā kupu waiwai

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 lower-quality goods or services. 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.
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. We compare the likely state of competition if the merger proceeds with the likely state of competition if the merger does not proceed.
Determination	A formal and binding decision made by the Commission under the legislation it administers.
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. Under the Telecommunications Act, regulated telecommunication services are required to make reliable and timely information prescribed by the Commission publicly available so that a wide range of people are informed about their operation and behaviour.
Merger	An amalgamation of two or more business enterprises into a single enterprise. Colloquially, mergers also include business acquisitions that involve the acquisition of assets or shares of a business.
Output class	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 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 the Ministry for Business, Innovation and Employment.
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. This includes electricity, gas and airport sectors.
Product safety and consumer information standards cases	Product safety and consumer information standards cases include investigations of products such as bikes, cots, cigarette lighters, baby walkers, children's sleepwear and children's toys to which certain safety standards apply as well as the incorrect labelling of footwear and clothing and failure to display required information on motor vehicles offered for sale.

Strategic objective	A broadly defined objective that an organisation must achieve to make its strategy succeed.
Substantially lessen competition	A reduction in competition that is real or of substance, which will be reflected in higher prices or lower-quality goods or services.
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.

Acronyms

ACCC	Australian Competition and Consumer Commission
CCCF Act	Credit Contracts and Consumer Finance Act 2003
CDR	Consumer data right
DIA	Department of Internal Affairs
DIRA	Dairy Industry Restructuring Act 2001
DPP	Default price-quality path
FTTH	Fibre to the home
HFC	Hybrid fibre cable
IM	Input methodologies
IMD	International Institute for Management Development
MBIE	Ministry of Business, Innovation and Employment
MfE	Ministry for the Environment
MPI	Ministry for Primary Industries
OECD	Organisation for Economic Co-operation and Development
PBE FRS	Public Benefit Entity Financial Reporting Standard
RPS	Retail payment system
SOI	Statement of Intent
SPE	Statement of Performance Expectations
TDRS	Telecommunications Dispute Resolution Scheme
ToR	Terms of Reference

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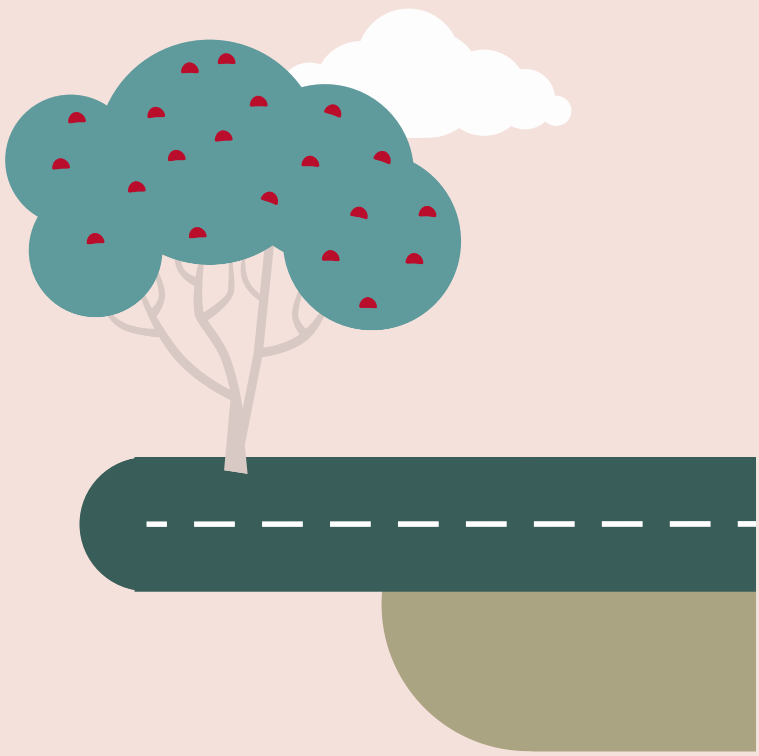

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