



Statement of Performance Expectations

Our plan for 2021/22





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Legislation enforced by the Commerce Commission

Commerce Act	Commerce Act 1986
CCCF Act	Credit Contracts and Consumer Finance Act 2003
DIR Act	Dairy Industry Restructuring Act 2001
Fair Trading Act	Fair Trading Act 1986
Fuel Industry Act	Fuel Industry Act 2020
Telecommunications Act	Telecommunications Act 2001

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Presented to the House of Representatives pursuant to section 149L(3) of the Crown Entities Act 2004.

Overview

Introduction

The Commission is an independent Crown entity and New Zealand’s integrated competition, consumer, fair trading and economic regulatory agency. We believe New Zealanders are better off when markets work well, and consumers and businesses are confident market participants.

The Commission plays an important role in the economy through the delivery of our strategic objectives. We will continue to support and contribute to the Government’s economic plan and three overarching objectives:

- Keeping New Zealanders safe from COVID-19
- Accelerating New Zealand’s economic recovery
- Laying the foundations for a better future.

As an agency of the public sector we are expected to 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 expect of all who work at the Commission when acting on behalf of all New Zealanders.

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

Our status as an independent Crown entity is essential to our role as a regulator. We are not subject to Government direction when carrying out our enforcement and regulatory activities. We are required to be an impartial promoter and enforcer of the law. We are accountable for our performance to the Minister of Commerce and Consumer Affairs and the Minister for the Digital Economy and Communications.

Purpose of this Statement of Performance Expectations

This Statement of Performance Expectations (SPE) sets out and communicates our annual performance expectations for the 2021/22 financial year and provides a base against which actual performance can be assessed.

Our SPE 2021/22 supports our Statement of Intent 2020–2024 (SOI) and is part of the Commission’s accountability to the public. It details our output classes, our prospective financial statements and how we will assess our 2021/22 financial year’s performance.

As the Commission makes investment decisions and deploys new funding over the coming year, we will review performance measurement and report actual achievement in the 2021/22 Annual Report.

Statement of responsibility

The Commission prepares and presents this SPE to the House of Representatives under Part 4 of the Crown Entities Act 2004.

The prospective financial statements and performance expectations, prepared following generally accepted accounting standards for this SPE, were not audited and may not be relied upon for any other purpose.

The Board acknowledges responsibility for the preparation of this SPE, reflecting the forecast performance and the Commission's forecast financial position for the financial year ending 30 June 2022.



Anna Rawlings
Chair



Sue Begg
Deputy Chair



How we will make New Zealanders better off

At the centre of everything we do is our vision to make New Zealanders better off. This work supports the Government’s economic and wellbeing objectives by contributing to a more competitive, confident and productive business environment that delivers positive outcomes for all New Zealanders.

We focus our efforts where we can have the greatest impact addressing consumer harm, especially harm to the most vulnerable members of society. We are committed to protecting the interests of consumers and promoting competition. This is because competition is usually an effective way to help make New Zealanders better off. Where competition is not possible or requires ongoing attention, our regulation work aims to help ensure that providers of essential infrastructure have incentives to deliver strong and sustainable services to New Zealanders at the lowest cost and to a suitable quality standard.

Supporting consumers and all businesses, large and small, to correctly understand and apply all of the laws that we enforce will help deliver the best possible outcomes in markets during the COVID-19 pandemic and New Zealand’s economic recovery period. We are committed to engaging with all New Zealanders’ needs and adapting to our operating environment as it continues to evolve. In this way, we can make the most of our contribution to all New Zealanders’ lives.

Our vision and framework

Our strategic framework brings together our vision, strategic objectives, strategies and values. These make up our Vision and Strategy 2017–2022, which sets out the context for what we are doing, why we are doing it and what we aspire to achieve.

The Commission’s strategic framework is illustrated in the diagram below:



Strategic objectives

Our two strategic objectives underpin our vision and support each other.

The more confidence consumers and businesses have when participating in markets, the better markets are likely to function. Well-functioning markets also help to ensure that consumers and businesses can participate with confidence. The table below outlines the Commission's strategic objectives.

Markets work well

Our role in encouraging markets to work well is to provide that:

- businesses understand and operate according to the rules
- there is effective competition between businesses
- competition is not undermined by anti-competitive arrangements
- market power is not used to frustrate competition
- mergers do not substantially lessen competition
- regulated sectors are incentivised to perform efficiently
- accurate information is available to both consumers and businesses, and
- new laws/regulations relevant to us are well-targeted, efficient and effective.

Consumers and businesses are confident market participants

Our role in contributing to consumer confidence is to:

- educate New Zealanders about consumer laws so they can be empowered
- help ensure consumers have access to information so they can make informed purchasing choices
- monitor terms and conditions related to purchase of goods and services to ensure they are fair and clear
- help ensure consumers are not misled about the price, characteristics and quality of goods and services and credit terms
- help ensure consumers benefit from dependable and efficient regulated services
- help ensure consumers have access to innovative products and services, and
- promote compliance with the law, prosecute violations of the law and deter unlawful conduct.

Our role in improving business confidence is to:

- enhance business understanding of the legislation we are responsible for so that businesses do not unintentionally breach the law
- minimise anti-competitive or misleading conduct by competitors, and
- ensure the rules and regulations in relation to regulated businesses are applied equally and impartially
- provide a predictable regulatory regime to businesses.



Strategies

To have an impact and contribute to the achievement of our strategic objectives, we have three overarching strategies that drive our work:

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

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

Values

Our values form the foundation of our strategic framework. These values guide the way we operate to implement our three strategies and achieve our strategic objectives.

The layers of this framework are outlined more in our SOI 2020–2024.



Legislative responsibilities and essential functions

The graphic below describes the laws we are responsible for administering and enforcing.



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 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 'fit and proper person' certification.






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.



In addition to carrying out our responsibilities under the above Acts, we also contribute to the development and implementation of consumer, competition, fair trading and economic regulatory policy settings and laws.

How we will assess our performance

This section describes our activities, how we will measure performance and provides a breakdown of expected revenue – Crown and other revenue and proposed expenditure for each output class.

We will achieve our strategic objectives in 2021/22 by implementing our plan and carrying out our functions across our output classes.

Our work is primarily funded through a variety of multi-year and annual appropriations under Vote Business, Science and Innovation.

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



Competition, Consumer and Market Studies

This section outlines our output measures and financial budget information relating to our role under the following Acts:

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

Competition

Competition encourages businesses to innovate and use resources more efficiently, resulting in less waste and greater productivity. Consumers benefit because they are offered a better selection of goods and services of appropriate quality at more affordable prices.

This output class includes our work in safeguarding the integrity of competitive markets and supporting the long-term economic recovery from the effects of COVID-19, including enforcing the Commerce Act 1986, working with other Government agencies and partners where appropriate in policy development regulatory initiatives and understanding of the impact on markets, and educating industry participants about their obligations under competition law.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Percentage of merger clearance decisions made within 40 working days when no letter of issues is sent to parties	86%	75%	75%
Average number of working days from date of decision to date of publication of reasons for declined clearance applications	There were no declined clearances	There were no declined clearances	10 days
Number of Commerce Act 1986 matters completed	12	7	5–20
Percentage of competition investigations decided within 18 months of the investigation being opened	91%	71%	75%
Percentage of investigations involving a court action, statutory undertaking or negotiated settlement response, meeting our internal process quality standards	100%	100%	100%

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	11,493	13,289
Other revenue	319	175
Total operating revenue	11,812	13,464
Total operating expenses	11,812	13,464
SURPLUS/(DEFICIT)	0	0

Consumer (including fair trading and credit)

An integral part of our role is to protect consumers from harm caused when traders and lenders breach consumer and credit laws. Tackling consumer harm is vital to ensuring New Zealanders have the confidence to participate in our economy as buyers and sellers of goods and services.

Under the Credit Contracts and Consumer Finance Act 2003 (CCCF Act), we help protect people when they borrow money or buy goods on credit, including through mortgages, credit cards and short or long-term loans. Under the Fair Trading Act 1986, we help make sure consumers are not misled when buying products and services and enforce rules relating to product safety and other unfair business practices.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Number of Credit Contracts and Consumer Finance Act matters completed	58	50	At least 50
Number of product safety and information standards matters completed	103	100	At least 75
Number of Fair Trading Act matters completed	344	300	At least 175
Percentage of Fair Trading Act investigations decided within 12 months of the investigation being opened	97%	95%	95%
Percentage of credit investigations decided within 18 months of the investigation being opened	98%	95%	95%
Percentage of investigations involving a court action, statutory undertaking or negotiated settlement response, meeting our internal process quality standards	100%	100%	100%
Fit and proper person applications processed under the Credit Contracts and Consumer Finance Act within 30 working days where all information has been received, and no conditions have been imposed	New measure	New measure	75%

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

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	18,984	19,084
Other revenue	404	1,970
Total operating revenue	19,388	21,054
Total operating expenses	19,388	20,648
SURPLUS / (DEFICIT)	0	406

The consumer surplus of \$406,000 reflects upfront fees collected for the new fit and proper person certification process. The initial surplus will be used to fund forecast deficits in future years.

Market studies (also known as competition studies)

Parliament passed an amendment to the Commerce Act in 2018 that empowers the Commission to undertake market studies and improve understanding about markets, and to identify ways to stimulate competition, if required.

Our role is to investigate the conditions for competition and the resulting outcomes in markets, as described in specific Terms of Reference, and to make recommendations if we consider they will enhance competition for the long term benefit of consumers.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
All competition studies undertaken are completed within agreed timeframes.	Achieved	Achieved	Achieved

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

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	2,732	3,330
Other revenue	48	17
Total operating revenue	2,780	3,347
Total operating expenses	2,780	3,347
SURPLUS/(DEFICIT)	0	0

Economic regulation

This section outlines our output measures¹ and financial budgeting information relating to our role under the following Acts:

- Telecommunications Act 2001
- Commerce Act 1986 (Part 4)
- Fuel Industry Act 2020
- Dairy Industry Restructuring Act 2001

Telecommunications (excluding fibre networks)

Our role is to ensure retail broadband and mobile markets are competitive through regulation of wholesale telecommunications services and our oversight of retail service quality.

We set price and access terms for services provided over the copper network and certain mobile services. This includes funding independent testing of broadband performance and publishing information to help consumers make better purchasing decisions.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	9	5	At least 4
Average time to complete telecommunications determinations ²	2.5 months	3 months	6 months
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	6	9	At least 3
Quality assurance processes for determinations and code amendments are in place and applied	100%	100%	100%

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

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	6,550	9,368
Other revenue	81	49
Total operating revenue	6,631	9,417
Total operating expenses	6,631	9,417
SURPLUS/(DEFICIT)	0	0

1. In relation to our Economic Regulation output measures, the difference in quantity output targets and actuals (determinations and reports) between the 2022 year and previous years is due to the phasing of work across the regulatory cycles involved (ie, the differing sectors that are subject to economic regulation under the legislation listed above).
2. This measure only includes routine determinations that are completed on a regular basis under the existing Telecommunications Act 2001. Distinct one-off determinations are excluded as inclusion would skew the average for the year in which they were completed so it is no longer comparable with other years.

Fibre

Our role is to ensure telecommunications markets deliver outcomes for the long-term benefit of end-users through regulation of wholesale fibre telecommunications services.

We are responsible for setting the upfront rules and processes (input methodologies) and price-quality and information disclosure requirements, for the new regulatory regime applying to fibre networks.³

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	0	3	At least 4
Fibre Input Methodology determination completed by 30 June 2020	Not achieved	–	–
Fibre Input Methodology determination completed by 30 June 2021	New measure	Achieved ⁴	–
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	New measure	New measure	At least 1
Percentage of Part 6 of the Telecommunications Act 2001 determinations completed by statutory deadlines	New measure	New measure	100%
Quality assurance processes for determinations and code amendments are in place and applied	100%	100%	100%

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

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	3,633	5,724
Other revenue	51	32
Total operating revenue	3,684	5,756
Total operating expenses	3,684	5,756
SURPLUS / (DEFICIT)	0	0

3. The fibre appropriation (for the duration of the four-year multi-year appropriation involved (2019–2022)) also provides for our work arising from the inclusion of broadcasting transmission services within the Telecommunications Act 2001.

4. The final fibre input methodologies determination (excluding financial loss asset) was published on 13 October 2020.

Fuel

Our role is to promote competition in engine fuel markets for the long-term benefit of fuel users through the implementation and administration of a monitoring and enforcement regime under the Fuel Industry Act 2020.

Core components of the regime involve oversight of wholesale pricing and contracts, information disclosure requirements and how price information is displayed at retail fuel sites.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Number of Fuel Industry Act 2020 reports completed	New measure	New measure	At least 1

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

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	500	3,830
Other revenue	7	17
Total operating revenue	507	3,847
Total operating expenses	507	3,847
SURPLUS/(DEFICIT)	0	0

Electricity lines services

Our role is to regulate the monopoly providers of electricity lines and the national electricity grid under Part 4 of the Commerce Act 1986.

Our regulation helps mimic the effects of competition by ensuring monopolies have incentives to deliver reliable and resilient services to consumers at the lowest cost. We use a range of regulatory tools to achieve this, such as price-quality and information disclosure regulation, and we can take enforcement action when monopolies break the rules.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	19	6	At least 3
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	100%	100%	100%
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	4	8	At least 5
Quality assurance processes for determinations and code amendments are in place and applied	100%	100%	100%

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

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	6,000	8,541
Other revenue	1,604	44
Total operating revenue	7,604	8,585
Total operating expenses	7,604	8,585
SURPLUS / (DEFICIT)	0	0

Gas pipeline services

Our role is to regulate the transmission and distribution businesses that own and operate New Zealand's gas pipeline infrastructure under Part 4 of the Commerce Act 1986.

Our regulation helps mimic the effects of competition by ensuring monopolies have incentives to deliver reliable and resilient services to consumers at the lowest cost. We use a range of regulatory tools to achieve this, such as price-quality and information disclosure regulation, and we can take enforcement action when monopolies break the rules.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	2	2	At least 4
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	N/A – refer to note 1	N/A – refer to note 1	100%
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	2	2	At least 3
Quality assurance processes for determinations and code amendments are in place and applied	100%	100%	100%

Note 1 – The determinations completed did not have statutory deadlines.

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

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	1,500	3,717
Other revenue	17	20
Total operating revenue	1,517	3,737
Total operating expenses	1,517	3,737
SURPLUS / (DEFICIT)	0	0

Airport services

Our role is to regulate selected airport services at New Zealand’s three international airports under Part 4 of the Commerce Act 1986.

Auckland, Wellington and Christchurch international airports are subject to information disclosure regulation which involves us receiving and reviewing information about airport pricing and spending decisions to improve transparency about their performance.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Number of determinations (includes determinations, clarifications, reviews and amendments)	2	2	At least 2
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	N/A – refer to note 2	N/A – refer to note 2	100%
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	0	0	At least 2
Quality assurance processes for determinations and codes amendments are in place and applied	100%	100%	100%

Note 2 – The determinations completed did not have statutory deadlines.

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

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	350	600
Other revenue	5	2
Total operating revenue	355	602
Total operating expenses	355	602
SURPLUS/(DEFICIT)	0	0

Input Methodologies

Our role is to set and review the up-front rules which apply to the regulation of monopoly providers under Part 4 of the Commerce Act 1986.

Our regulation helps mimic the effects of competition by ensuring monopolies have incentives to deliver reliable and resilient services to consumers at the lowest cost. The up-front rules or “input methodologies” are used to set a range of regulatory tools to achieve this, such as price-quality and information disclosure regulation.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Input methodologies under Part 4 of the Commerce Act 1986 are reviewed by December 2023	New measure	New measure	On track

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

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	0	500
Other revenue	0	3
Total operating revenue	0	503
Total operating expenses	0	503
SURPLUS/(DEFICIT)	0	0

Dairy

Our role is to administer the milk price monitoring regime that applies to Fonterra to increase transparency about how it sets the price it pays its farmers for milk under the Dairy Industry Restructuring Act 2001.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	2	2	At least 2

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

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	650	757
Other revenue	10	4
Total operating revenue	660	761
Total operating expenses	660	761
SURPLUS / (DEFICIT)	0	0

Part 4 inquiries

Part 4 of the Commerce Act 1986 sets out the particular goods and services that are subject to regulation and the legislative rules governing that regulation. Sectors currently subject to Part 4 include electricity transmission and distribution, gas pipelines and selected airport services.

It also sets out the process for us when undertaking inquiries into whether regulation of other goods and services may be needed. Such an inquiry can be undertaken on our own initiative or at the direction of the Minister of Commerce and Consumer Affairs.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Part 4 inquiries will be completed as required	0	No Part 4 inquiries	Achieved

Our Part 4 inquiries work is funded through the Vote Business, Science and Innovation: Economic Regulation Inquiries.

We have not budgeted for any Part 4 inquiries as no inquiries have yet been approved or are under consideration by the Commission.

Major litigation

Our role is to provide the best possible outcomes for New Zealanders in competitive and regulated markets by undertaking major or complex litigation where appropriate.

Output measure	2020 Actual	2021 Estimated actual	2022 Target
Litigation Funds are utilised in accordance with the Litigation Fund criteria	Achieved	Achieved	Achieved

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

Internally-sourced litigation

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	4,658	5,201
Other revenue	95	35
Total operating revenue	4,753	5,236
Total operating expenses	4,753	5,236
SURPLUS/(DEFICIT)	0	0

Externally-sourced litigation

	2021 Budget	2022 Budget
Operating revenue		
Revenue – Crown	7,000	8,000
Other revenue	0	0
Total operating revenue	7,000	8,000
Total operating expenses	7,000	8,000
SURPLUS/(DEFICIT)	0	0

Our prospective finances

Statement of significant underlying assumptions

The prospective financial statements are presented on pages 23-25 based on existing government policies, in consultation with our oversight ministry, the Ministry of Business, Innovation and Employment. There are several assumptions used in preparing the prospective financial statements. The prospective financial statements should be read with these assumptions in mind.

We have made the following significant underlying assumptions in preparing the prospective financial statements:

- The Commission's functions will remain broadly the same as in the previous year, outside of the areas of Liquid Fuels Monitoring and Enforcement and establishment work related to the Government's announced intentions for regulation of Merchant Services Fees.
- Revenue from the Crown received by the Commission is consistent with the 2021/22 Estimates of Appropriations and the anticipated Supplementary Estimates of Appropriations.
- The Commission's operations are largely unaffected by any further COVID-19 restrictions, as staff can continue to operate remotely. While the Commission continues to adapt a range of activities in response to COVID-19, we have assumed that the Commission's core operations are largely unaffected.
- We will not commence any Part 4 inquiries during the year.
- Revenue for Fit and Proper Person Certification applications is broadly consistent with modelling underlying the fee consultation process.
- We have based our expected expenditure on major litigation activities on our estimate of the timing and extent of court hearings for existing and expected litigation cases. If delays, settlements, or significant other litigation matters arise from Commission cases, then expenditure on major litigation will change, favourably or unfavourably, for the year.
- A significant portion of our work is reactive, based on requests from Ministers or the public, and on complaints we receive. In preparing the prospective financial statements, we have assumed that some activity (particularly in our competition and consumer work) will occur at a level in line with historical activity.

The Commission has adopted these assumptions as at 30 June 2021.

Prospective financial statements

Statement of prospective comprehensive revenue and expense

for the year ended 30 June 2022

	2021 Budget \$000	2021 Estimated actual \$000	2022 Budget \$000
Operating revenue			
Revenue from non-exchange transactions			
Revenue – Crown	64,050	57,157	81,941
Court cost awards	100	17	100
Total revenue from non-exchange transactions	64,150	57,174	82,041
Revenue from exchange transactions			
Fees and recoveries	1,550	1,427	1,996
Interest	600	350	150
Other revenue	391	304	122
Total revenue from exchange transactions	2,541	2,081	2,268
Total operating revenue	66,691	59,255	84,309
Operating expenses			
Members and personnel	42,894	40,124	52,314
Legal and other professional fees	15,723	10,453	21,920
Computer, information, and information technology	1,953	1,777	2,445
Occupancy	2,384	2,376	2,922
Depreciation and amortisation	1,909	1,888	1,831
Other expenditure	1,828	1,580	2,471
Total operating expenses	66,691	58,198	83,903
Surplus/(deficit)	0	1,057	406
Total comprehensive revenue and expense for the year	0	1,057	406

Statement of prospective changes in equity

for the year ended 30 June 2021

	2021 Budget \$000	2021 Estimated actual \$000	2022 Budget \$000
Balance at 1 July	16,055	16,158	17,215
Comprehensive revenue and expense			
Surplus/(deficit)	0	1,057	406
Total comprehensive revenue and expense	0	1,057	406
Balance at 30 June	16,055	17,215	17,621

Statement of prospective financial position for the year ended 30 June 2022

	2021 Budget \$000	Estimated actual 2021 \$000	2022 Budget \$000
Equity			
General funds	13,055	14,215	14,215
Registry function reserve	0	0	406
Litigation costs reserve	3,000	3,000	3,000
Total equity	16,055	17,215	17,621
Current assets			
Cash and cash equivalents	2,154	5,830	5,413
Fees and recoveries receivable	114	821	50
Short-term investments	14,000	14,000	14,000
Prepayments	720	1,200	1,250
Total current assets	16,988	21,851	20,713
Non-current assets			
Property, plant and equipment	3,255	2,941	2,573
Intangibles	2,190	1,293	1,682
Total non-current assets	5,445	4,234	4,255
Total assets	22,433	26,085	24,968
Current liabilities			
Creditors and other payables	1,612	1,534	1,792
Accrued expenses	930	900	936
Lease incentive	170	170	170
Penalties and cost awards held in trust	50	50	50
Crown funding repayable	126	2,169	8
Employee entitlements	2,640	3,197	3,711
Total current liabilities	5,528	8,020	6,667
Non-current liabilities			
Lease incentive	850	850	680
Total non-current liabilities	850	850	680
Total liabilities	6,378	8,870	7,347
Net assets	16,055	17,215	17,621

Statement of prospective cash flows for the year ended 30 June 2022

	2021 Budget \$000	2021 Estimated actual \$000	2022 Budget \$000
Cash flow from operating activities			
Crown funding received	64,266	58,675	82,600
Fees and recoveries received	2,041	1,838	2,239
Receipts and payment of penalties (net)	115	(74)	0
Interest received	600	388	148
Member and employee payments	(43,180)	(39,826)	(51,669)
Supplier payments	(22,045)	(16,613)	(29,913)
Repayment of Crown funding	(1,394)	(3,267)	(2,169)
Goods and services tax (net)	83	(98)	199
Net cash inflow/(outflow) from operating activities	486	1,023	1,435
Cash flow from investing activities			
Investment receipts/(deposits)	(902)	(902)	0
Property, plant and equipment purchases	(577)	(755)	(707)
Intangible assets purchases	(1,566)	(608)	(1,145)
Net cash inflow/(outflow) from investing activities	(3,045)	(2,265)	(1,852)
Net increase/(decrease) in cash and cash equivalents	(2,559)	(1,242)	(417)
Opening cash and cash equivalents	4,713	7,072	5,830
Closing cash and cash equivalents	2,154	5,830	5,413

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

Penalty receipts and payment and cost awards are shown net because the Commission holds these funds in trust in accordance with agreements.

Statement of accounting policies

for the year ended 30 June 2022

Reporting entity

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

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

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

Measurement base and statement of compliance

We have prepared these prospective financial statements to comply with the requirements of the Crown Entities Act 2004. We prepared these financial statements on a historical cost basis for a going concern to comply with New Zealand generally accepted accounting practice (GAAP), which includes the PBE accounting standards which apply to a public sector PBE. The Commission authorised the financial statements for issue on 30 June 2021.

The prospective financial statements comply with PBE FRS 42 – Prospective Financial Statements. We are required to prepare a statement of performance expectations, including prospective financial statements, at or before the start of each financial year to promote public accountability. The prospective financial statements may not be appropriate for any other purposes.

We have prepared the prospective financial statements based on the best estimates and assumptions about future events that we expect to occur. As the financial statements are prospective, actual results will vary from the information presented. We will disclose and explain all material variations in the subsequent Annual Report.

Functional and presentation currency

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

Significant accounting policies

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

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

Revenue – Crown – The Commission receives funding via appropriations from the Crown. Revenue from the 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 appropriations are restricted in their use to meet the Commission’s objectives and the scope of the relevant appropriations. Revenue from the Crown we receive but do not spend is refunded to the Crown after year-end for all output classes except those funded by Vote Business, Science and Innovation – Enforcement of General Markets 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 transactions’ dates. 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 a party to various operating leases as a lessee. As the lessors retain all of the risk and rewards of ownership of the leased property, plant and equipment substantially, 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. Any unamortised lease incentive and outstanding obligation for reinstatement are recognised as a liability at the balance date.

Depreciation and impairment – Depreciation (and amortisation for intangible assets) are provided on a straight-line basis on all assets to allocate the asset’s cost (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 items of property, plant and equipment are subject to an annual test of impairment to test the recoverable amount. Any impairment losses are recorded as an expense in the statement of comprehensive revenue and expense in the period in which they are first identified.

The estimated useful lives of the major asset classes are:

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

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

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

Goods and services tax – All items in the financial statements are presented exclusive of GST, except for receivables and payables, and unearned Revenue – Crown received in advance, which is 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 amount of GST recoverable from or payable to the Inland Revenue Department is included as part of receivables or creditors in the statement of financial position and classified as an operating cash flow in the statement of cash flows.

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

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

Investments – Investments are term deposits issued by New Zealand registered banks with maturities of more than 90 days. Term deposits are initially measured at fair value plus any transaction costs. After initial recognition, investments are re-measured at amortised cost using the effective interest rate method.

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

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

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

Employee entitlements – Employee entitlements are unpaid salaries, bonuses, and annual leave which we owe to our personnel. At balance date, we recognise any unpaid employee entitlements 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, resulting in costs being ordered against or in favour of the Commission. The outcome of an order for costs may not be certain until all appeal processes are completed. Therefore, the possibility of a costs award being incurred or received is first disclosed as either a contingent liability or a contingent asset. An award for costs, whether for or against the Commission, is only recognised in the statement of comprehensive revenue and expense when it is probable that there will be a payment or receipt of resources (eg, cash) and we can measure the amount reliably.

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

Changes in accounting policies

The accounting policies adopted are consistent with the previous year.

Financial statements glossary

The following table provides definitions for 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, nor do they necessarily reflect the way we interpret and apply accounting standards.

Accounts payable	Debts owed to somebody (eg, 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 (eg, a company) for a service we have provided where we have not been paid at balance date.
Asset	An asset is something that we own, expect to receive in the future, or control.
Amortisation	Amortisation is basically the same as depreciation (see below), except that it is applied to intangible assets. (eg, software).
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 which share most of the characteristics of cash. They are cash equivalent because we can quickly turn them into cash, but they are technically not cash in a bank account or in the hand.
Comprehensive revenue and expense	Comprehensive revenue and expense is a broader concept of revenue which includes a surplus (or loss) from an entity's operations, and movements in parts of equity that aren't the result of surpluses or owner transactions. An example is a revaluation gain on the value of assets, which increases equity by increasing the value of an asset revaluation reserve.
Current asset (or liability)	A current asset is an asset 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 (like a future oil shipment or a future foreign currency purchase).
Generally accepted accounting practice (GAAP)	GAAP is short-hand for the series of standards, interpretations and concepts that are followed by accountants. NZ GAAP is defined by law to include standards issued by the External Reporting Board and, where that (or a specific law) does not cover a matter, accounting policies considered authoritative by the accounting profession in New Zealand.
Going concern	An assumption made by an entity that it will continue to operate into the foreseeable future. If this is incorrect, then the entity has to prepare its accounts as if it was 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 time frame (eg, bank account balances, term deposits, accounts receivable).
Monetary liabilities	Monetary liabilities are debts owed to another party, such as accounts payable, loans or unpaid salaries.
Non-current asset (or liability)	A non-current asset is an asset that we cannot ordinarily turn into cash within 12 months. A non-current liability is a liability that we would not ordinarily have to repay within 12 months.
Non-exchange transactions	Non-exchange transactions are transactions where goods or services are received, but there is no direct payment for those services. Taxes paid to the Government, and then passed on to a public sector agency like the Commission to fund services, are a form of non-exchange transaction.
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.
Public sector	Government departments, local and regional councils, Crown entities such as the Commission, and other agencies that are part of the Government.
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 (eg, director, senior management).
Statement of cash flows	A statement that shows how much cash we have received from various sources (investments, operating activities, cash injections received from the Crown) and cash payments we have made. (expenses, salaries, repayment of money to the Crown).
Statement of comprehensive revenue and expense	A statement that shows our surplus or deficit from our operating activities, plus or less any movements in non-owner equity items (see comprehensive revenue and expense above). This is the public sector equivalent of a statement of comprehensive income, which we used to prepare.
Statement of financial position	A statement that shows what assets we own or control, what liabilities we have, and the remainder (equity) at the balance date .

Commonly used terms

Appropriation	A parliamentary authorisation for Ministers of the Crown or an Office of Parliament to incur expenses or capital expenditure.
Authorisation	Under the Commerce Act, certain agreements and mergers are prohibited as they can lead to anti-competitive outcomes, such as increased prices or 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 and that is directly funded (in whole or in part) by the Crown. The Commission's output classes are primarily funded by appropriations from the Crown via 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.
Product safety and consumer information standards cases	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 which 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.



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