



STATEMENT OF INTENT

OUR APPROACH FOR 2016-2020



Working to protect and promote the interests of New Zealanders

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
Telecommunications Act	Telecommunications Act 2001



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

Commonly used terms

Appropriation	A parliamentary authorisation for Ministers of the Crown or an Office of Parliament to incur expenses or capital expenditure.
Authorisation	Under the Commerce Act, certain agreements and mergers are prohibited as they can lead to anti-competitive outcomes, such as increased prices or lack of choice. However, the Commerce Act recognises that in some circumstances an anti-competitive transaction may lead to sufficient public benefits that would outweigh the competitive harm. In this case the Commission can grant an authorisation for the agreement or merger to proceed.
Base milk price	The term used in the Dairy Industry Restructuring Act 2001 to refer to the farm gate milk price that is set by Fonterra. The farm gate milk price is the price paid by dairy processors to dairy farmers for raw milk. The purchase of raw milk from farmers at the base milk price is Fonterra's largest input cost.
Clearance	Under the Commerce Act, the Commission can grant a clearance for a proposed merger if we are satisfied that it is not likely to substantially lessen competition in a market. 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, 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.
Input methodologies	Upfront regulatory rules, processes and requirements set by us and applying to regulation under Part 4, and for undertaking Part 4 inquiries (eg, rules for valuing assets and calculating the cost of capital).
Merger	A merger is 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.
Outputs	Goods or services provided by the Commission.
Part 4	Part 4 of the Commerce Act. Under Part 4 of the Commerce Act, the Commission has a role regulating the price and quality of goods or services in markets where there is little or no competition and little prospect of future competition.
Price-quality path	Under Part 4 of the Commerce Act (subparts 9 and 10), non-exempt suppliers of electricity lines services and suppliers of gas pipeline services are subject to default/customised price-quality regulation. A default price-quality path (DPP) is the way the Commission determines appropriate price and quality controls for applicable regulated industries under Part 4 of the Commerce Act. A regulated business can apply for a customised price-quality path (CPP) when it has a specific need that isn't met by the DPP.
Regulated supplier	A supplier of goods or services regulated under either the Commerce Act or the Telecommunications Act.
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 or service.

OVERVIEW

Introduction

The Commerce Commission is New Zealand's competition, consumer and regulatory agency. Our purpose is to achieve the best possible outcomes in competitive and regulated markets for the long-term benefit of New Zealanders.

We are responsible for enforcing laws relating to competition, fair trading, and consumer credit contracts, and have regulatory responsibilities in the electricity lines, gas pipelines, telecommunications, dairy and airport sectors.

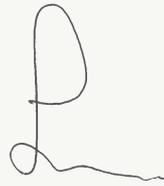
Our statement of intent (SOI) is designed to provide insight into the overall direction of the Commission. It sets out our strategic objectives for the next four years and details how the Commission intends to achieve our purpose.

The SOI is complemented by our statement of performance expectations (SPE), which focuses on the current year and sets out our annual performance measures and forecast financial statements.

This SOI has been prepared in accordance with section 139 of the Crown Entities Act 2004.



Dr Mark Berry
Chairman



Graham Crombie
Associate Member





Foreword from the Chairman

Protecting consumers and getting the best possible outcome from competitive and regulated markets is at the heart of what we do. Through education and enforcement we look to ensure businesses comply with the law, consumers know their rights, and there is a level playing field. Through regulation we aim to ensure that businesses in markets with little or no competition have incentives to provide long-term benefits for consumers.

Choosing the right tools

Our ultimate aim is to protect consumers and ensure that traders comply with the law. There are many ways to do that. One of those is education – making sure that both businesses and consumers understand the law and are clear about what their responsibilities and rights are. Another is enforcement action when businesses do not comply with the law.

We put a lot of effort into making guidance available for traders and working with specific sectors, industries and traders to provide them with the information they need to comply. Last year we also released our Competition and Consumer Investigation Guidelines, which provide information for businesses and consumers on how we undertake investigations.¹

When we do find instances of non-compliance and conclude an investigation we have a wide range of enforcement responses available to us. These are all outlined in detail in our Enforcement Response Guidelines.²

When making our decision on the most appropriate response we take into account the extent of harm, seriousness of the conduct and public interest. Not all cases merit prosecution. We wouldn't be using taxpayer resources effectively if we took every case to court, but when it is appropriate we will take proceedings, whether civil or criminal.

It is important that we continue to be active in both education and enforcement, to help protect consumers, prevent and stop unlawful conduct, deter future breaches and remedy any harm.

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1. Commerce Commission. "Competition and Consumer Investigation Guidelines" Available at: <http://www.comcom.govt.nz/the-commission/commission-policies/competition-and-consumer-investigation-guidelines/> Accessed 30 March 2016.
 2. Commerce Commission. "Enforcement Response Guidelines" Available at: <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-response-guidelines/> Accessed 9 March 2016.

Consumer and credit law reform

Over the last two years we have seen significant reform of both consumer and credit laws, which have given the Commission a number of new responsibilities and powers. The changes have also strengthened the protection offered to consumers and borrowers.

We continue to put a lot of effort and resource into implementing the consumer law changes and using our new tools. In the credit area we are focused on the conduct of lenders, in particular whether lenders are complying with the lender responsibility principles. This includes a focus on lender advertising, whether lenders are making the required enquiries before the loan is entered into, and whether the loan meets the borrower's objectives and requirements and will not cause substantial hardship to the borrower. We will also focus on issues that may arise where a borrower and any guarantor or their property is not treated in a fair or ethical manner, including when there are defaults, hardship or repossession. Disclosure remains a key area of focus to ensure that borrowers are well informed before taking out the loan.

Regulated industries

The regulatory regime under Part 4 of the Commerce Act is well established now and is seen as increasingly stable and predictable. We have conducted a round of successful pricing resets, with future resets in 2017 for gas pipeline businesses and in 2020 for non-exempt electricity distributors and Transpower.

Input methodologies (IM) are a key part of our Part 4 regime. These are the upfront regulatory methodologies, rules, processes and requirements for services that are regulated under Part 4 – Transpower, electricity distribution, gas pipelines and Auckland, Christchurch and Wellington international airports. These rules and processes were last set in 2010 and the Commission is required to review them at intervals of no more than seven years.

We are currently undertaking this review with a view to completing it by December 2016. This will allow for any changes to be applied before the May 2017 reset of the default price-quality paths for gas pipeline services and will give affected sectors greater predictability and certainty when investing in and managing their assets.

The scope of this work is important. We are committed to focusing on the big issues for the sectors, the things that really matter. For instance, emerging technologies may have an impact on the future design of electricity networks and the IM review will look at and seek to understand the issues and challenges relating to this. The review is benefiting from constructive engagement with our stakeholders, who share our objective of making the regulatory regime more effective.

Telecommunications

Our focus in the telecommunications area is to ensure the existing framework remains relevant, while supporting reform of the framework to allow us to better respond to emerging regulatory challenges. We are reviewing a range of existing services so that the regulatory framework remains up to date and does not place an unnecessary burden on firms.

We are also working to support the Government's review of the Telecommunications Act which is scheduled to be completed in 2017. The review is being led by the Ministry of Business, Innovation and Employment (MBIE) and aims to ensure New Zealand has the right framework for communications networks in the future.

Timeliness

Timeliness is a significant focus for the Commission in everything we do. While all our investigations and determinations involve varying levels of complexity, and as such take varying amounts of time, we are committed to being as efficient as possible. We continually review our internal settings to make sure any barriers that are slowing us down are identified and removed, and our limited resources are properly prioritised to achieve the greatest impact.

The area of clearances is becoming more of a challenge for us. In 2014/15 our average time to complete a clearance application was 63 working days against a target of 40. However, our working day average still compares favourably with other international jurisdictions.³

While complexity of the merger is a major factor, there are several others which influence the timeliness of our merger decisions – number of markets, level of opposition to the merger, time it takes parties and third parties to respond to information requests and issues, number of interviews conducted and whether the merger is a global acquisition, especially if divestments are involved in multiple jurisdictions. We are introducing a ‘stop the clock’ provision to our performance measure this year, similar to a number of other jurisdictions. This will measure the timeliness of the Commission’s processes rather than just the overall time taken on the determination by allowing us to stop counting the number of working days in specific situations. These are:

- requests from the merger parties or third parties for further time to respond to information requests if this would cause delay to our investigation
- time spent assessing divestment undertakings, or
- if the review of the merger by another jurisdiction(s) is causing delays to our investigation.

Making more information available

We are committed to providing New Zealanders with more information about the Commission’s processes and work. Improving how we engage and communicate is a continued focus for us and this includes talking more directly and frequently with our stakeholders through public forums, workshops, and analyst and media briefings, and improving the accessibility of our reports and determinations.

Late last year we released our Competition and Consumer Investigation Guidelines which give an in-depth view of what happens when someone complains to the Commission and how we investigate a matter. The guidelines are designed to help those who make complaints to us, as well as those who are being investigated and their legal counsel, to understand the process we go through. They provide greater transparency and give those who interact with us some idea of what to expect.



[Investigation guidelines](#)

3. Global Competition Review. “Rating Enforcement 2015”
Available at: <http://globalcompetitionreview.com/surveys/1189/rating-enforcement-2015> Accessed 1 March 2016

Over the last few years we have worked hard to develop strong relationships with community agencies that are at the forefront of dealing with consumer harm in New Zealand. This has allowed us to provide them with information they can use with their clients to help avoid harm. The exchange of information with these organisations has also helped us to detect and prosecute unlawful behaviours. The feedback has been very positive and we will continue working closely with these agencies.

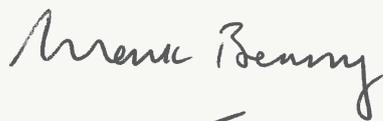
We will also continue to report annually on consumer issues. Our Consumer Issues report is based on analysis of information from a wide range of sources and identifies current issues and emerging risks that have the potential to affect markets or consumers.

Continuous improvement

In 2015 we undertook an independent expert review using the State Services Commission's Performance Improvement Framework (PIF). The framework is a tool to lead improvement within a state sector organisation. It is designed to identify the critical gaps and opportunities between the current and desirable future capability and performance.

Overall the review concluded that the Commission is performing well. We are particularly pleased that organisational areas we have focused on over the past five years, such as leadership and workforce development, were rated as strong. We also scored well in our core business outputs. While no areas were scored as weak, we recognise that there is still scope to improve the way we work. In particular we will be focusing on further developing our strategy, leadership and governance, building on our efforts to protect consumers, enhancing how we interact with government, and continuing to improve our overall effectiveness and efficiency.

We are committed to undertaking a holistic strategic exercise over the coming year, including the development of an integrated strategic plan for the organisation. We believe that a more integrated approach will bring additional clarity for both external stakeholders and the Commission, clearer direction, and an even greater sense of common purpose. We look forward to the challenges this work brings and expect to reflect the results of this work in a new SOI for 2017.



Dr Mark Berry
Chairman



OPERATING CONTEXT

The competition system

Competition is a key driver for delivering greater productivity and growth in the New Zealand economy. Effective competition creates an incentive for firms to innovate, improve efficiency, and produce products and services at a price and quality demanded by consumers.

There is growing evidence from around the world of the economic benefits that a strong competition regime can bring.⁴ While it can be challenging to measure the link between competition and economic growth, there is evidence that the enforcement of competition law, alongside policies promoting competition, can create more competition in markets leading to higher productivity which in turn impacts on economic growth.⁴

Research shows strong links between competition and productivity as effective competition drives efficient pricing, innovation, responsive quality standards and choice.⁵ Research has shown that firms in moderately competitive markets have greater incentives to innovate and improve efficiency and that this leads to productivity gains.⁴ Competition laws and a strong competition regulator can also have an effect on investment by boosting business and investor confidence through reduced corruption and anti-competitive behaviour.⁴

While the benefits outlined above apply to most markets, there are limited cases where there is little or no competition in a market and little prospect of future competition. In these markets, regulation can help create similar outcomes to those seen in competitive markets. Regulation is designed to ensure that suppliers of regulated goods and services have similar incentives and pressures to suppliers operating in competitive markets. This ensures a benefit for consumers in the long term, as they are more likely to pay prices that reflect the cost and quality of goods or services they receive.



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4. OECD, 2014, "Factsheet on how competition policy affects macro-economic outcomes" Available at <http://www.oecd.org/daf/competition/2014-competition-factsheet-for-print-en.pdf> Accessed 19 Feb 2016
 5. Kitzmuller, M., and Martinez Licetti, M. 2013. "Competition Policy: Encouraging Thriving Markets for Development" ViewPoint Public Policy for the Private Sector Series, No 331, The World Bank Group

Our role

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

- consumers are protected when buying goods or services, taking out a loan or entering into a consumer credit contract
- there is fair competition between businesses and a level playing field for competitors – the rules are known and players are monitored
- market power is not abused
- the level of competition in a market is not substantially lessened by amalgamation
- regulated businesses face incentives to provide long-term benefits for consumers
- accurate information is available to both businesses and consumers.

The Commission is an independent Crown entity, with some quasi-judicial functions established under the Commerce Act. We are primarily accountable to the Minister of Commerce and Minister for Communications for our performance. We are not subject to direction from the Government in carrying out our enforcement and regulatory activities. This independence requires us to be an impartial promoter and enforcer of the law. Where relevant, we use our experience to provide advice on policy development and legislative reviews.

The Commission is made up of three branches which work together to achieve our strategic objectives; the competition and the regulation operational branches supported by the organisation performance branch. The diagram below shows the Commission’s strategic objectives.



Competition and consumer

We play a key role in protecting the interests of consumers and promoting fair trading and competition in New Zealand.

As a competition authority, the Commission enforces, and provides information and guidance on, three key pieces of legislation:

Commerce Act 1986 (Parts 2, 3 and 5)	Fair Trading Act 1986	Credit Contracts and Consumer Finance Act 2003 (CCCF Act)
<p>Prohibits anti-competitive behaviour and acquisitions that substantially lessen competition.</p> <p>Under the Commerce Act, the Commission can approve a merger that does not substantially lessen competition (known as a clearance). We can also approve a merger or a restrictive trade practice that lessens competition but would ultimately benefit New Zealanders (known as an authorisation). Clearances and authorisations offer businesses protection from legal action under the Commerce Act.</p>	<p>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.</p> <p>The Commission's investigation and enforcement powers were expanded with amendments to the Act which came into force in 2014 and early 2015. The Commission is now also responsible for enforcing updated laws relating to a range of sales methods and the bans on unsubstantiated representations and the use of unfair contract terms in standard form consumer contracts.</p>	<p>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 and credit fees.</p> <p>Significant amendments to this Act came into force in mid-2015. They included amendments to existing disclosure requirements, introduction of new requirements for responsible lending, and updated repossession laws.</p>

Regulation

We play a key role in regulating markets where competition is limited. When competition is limited, there is the risk that consumers are overcharged or do not receive the appropriate quality of service they would expect in a competitive market.

As a regulatory agency, the Commission has responsibility under three key pieces of legislation:

Commerce Act 1986 (Part 4)	Telecommunications Act 2001	Dairy Industry Restructuring Act 2001
<p>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.</p>	<p>Regulates the supply of certain wholesale telecommunications services in New Zealand.</p>	<p>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.</p>

Under Part 4 of the Commerce Act, we regulate suppliers of electricity lines and gas pipeline services (distribution and transmission) and specified airport services (at Auckland, Christchurch and Wellington international airports). Our responsibilities for these regulated industries include:

- administering an information disclosure regime (for all services), including undertaking summary and analysis work on disclosed information
- setting and enforcing price-quality paths (which specify maximum revenue or maximum prices, and quality standards) for gas pipeline services, non-consumer-owned electricity distribution services and Transpower
- approving major capital investments in the national grid or the high-voltage electricity transmission network for Transpower
- setting and reviewing input methodologies (upfront regulatory rules and processes) for all regulated services
- conducting inquiries under the Commerce Act into whether particular goods or services should be regulated or controlled, and making recommendations to the Minister.

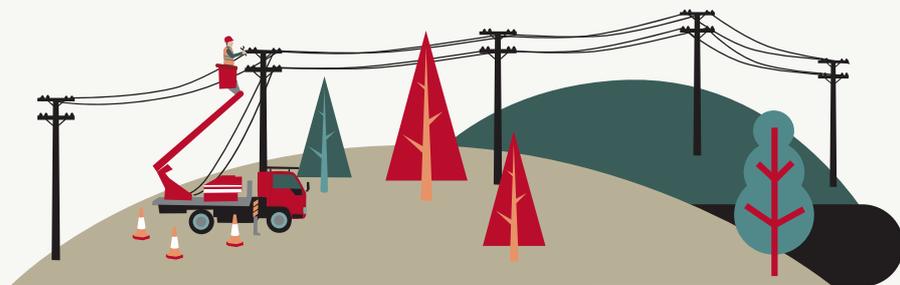
Under the Telecommunications Act, we determine prices for designated access (as required), monitor commercial access to specified services, check the need for ongoing regulation of services, and undertake regular monitoring.

The Dairy Industry Restructuring Act provides us with both an enforcement and an adjudication role in relation to Fonterra's obligations in domestic dairy markets. We also have responsibilities to oversee Fonterra's approach to setting the base milk price paid to its suppliers.

Changes to our legislative framework

The Commerce (Cartels and Other Matters) Amendment Bill currently before Parliament introduces a clearance regime for collaborative activities that do not substantially lessen competition. The changes this Bill brings will impact upon our work and we continue to work closely with MBIE and Ministers on the development of this Bill.

MBIE is currently reviewing the policy framework for regulating communications services in New Zealand. This review will affect the Telecommunications Act and the future design of regulation in the sector. We are assisting MBIE with this review and have seconded a staff member to support this work.



Who we work with

While the Commerce Commission is an independent Crown entity, we work cooperatively with other agencies and organisations to achieve our strategic objectives and get the best possible outcome for New Zealanders. These organisations include consumer and user groups, consumer advocacy and advice agencies, other state entities and the Ministers and ministries which oversee policy across our portfolio of work.

We have a key relationship with the Ministry of Business, Innovation and Employment, which has a major role in monitoring our performance. We also work closely with the Electricity Authority and the Financial Markets Authority, to ensure that collectively we deliver better outcomes for consumers without duplication or inconsistency in markets where we are both active.

We work closely with community agencies operating at grass roots levels, providing them with information they can use with their clients to help avoid harm, and to enable us to detect and prosecute unlawful behaviours.

International engagement

In addition, the Commerce Commission is part of a global network of similar competition law enforcement and regulatory agencies. As a member of the Organisation for Economic Co-operation and Development (OECD), New Zealand complies with the 1986 recommendations on international cooperation relating to the notification of investigations or proceedings to other member countries if their interests may be affected. We are a member of the International Competition Network (ICN) and the International Consumer Protection and Enforcement Network (ICPEN), both of which are associations of enforcement agencies from around the world.

We also have agreements with several competition bodies in other countries. These agencies share information as allowed by existing privacy and confidentiality laws, coordinate enforcement activities where appropriate and avoid any conflict in enforcement action.

Economic environment

The state of the New Zealand economy provides significant context to the work we do because of its impact on the way businesses operate and consumers behave.

New Zealand consumers are generally well served by our competitive markets. New Zealand is currently ranked 16th on the Global Competitiveness Index and has improved each year since 2011. We are ranked highly for goods and labour market efficiency as well as the ethical behaviour of firms. The index also rates the efficiency of our regulated markets highly, with electricity and telecommunications infrastructure rated at 5.9 against a top rating of 7.⁶

Markets in New Zealand are often concentrated as a result of our geographic isolation and small population. This increases the possibility of higher prices and lower-quality goods and services for consumers. In a concentrated market, the role of competition law and the enforcement agency is vital. Applying the law correctly helps to ensure markets do not become less competitive as a result of anti-competitive conduct.

6. World Economic Forum. "Competitiveness Rankings". Available at <http://reports.weforum.org/global-competitiveness-report-2015-2016/competitiveness-rankings/>. Accessed 1 March 2016.

Over the last three years we have noted a rise in the number of merger clearance applications, although numbers are still down from pre-Global Financial Crisis levels. Increases like these can be a feature of market structural characteristics like concentration. Those characteristics also have the potential to facilitate domestic cartels. Similar to merger applications, we have seen an increase in leniency requests seeking immunity from prosecution for domestic cartel conduct.

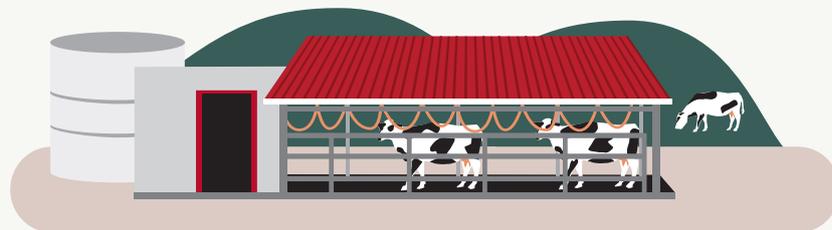
The rebuild of Christchurch and significant population growth in Auckland have created hubs of economic activity and growth for the New Zealand economy. The rapid growth of the construction sector, combined with its importance to the economy, makes it an ongoing area of focus for the Commission.

Many societal and economic factors in New Zealand influence our work. Our annual Consumer Issues report details the factors that impact our work and the issues we are dealing with and those on the horizon. For example, one of the trends identified in the 2015 report is the ongoing rise in online trading activity. Since 2010 monthly online sales in New Zealand have increased by approximately 180%.⁷ While the increase in online trading has benefits for consumers, it also poses risks and is an area that requires increased attention.

Emerging technologies have the potential to have a significant impact on our regulation work, particularly in the electricity sector. While it is difficult to quantify that impact at this stage, they are likely to have an influence on both demand and supply. On the supply side, the impact of solar and battery technology is now coming into play. While these technologies decrease demand, new innovations like electric cars could increase overall demand. Understanding the possible impacts of emerging technologies will be a key part of our input methodologies review.

In telecommunications, the continuing rollout of the Government's Ultra-Fast Broadband initiative is increasing the accessibility of fibre and high speed internet to New Zealanders. We are also seeing consolidation in the industry with Vocus merging with M2 and Spark acquiring spectrum management rights from Craig NZ and Woosh NZ.

The dairy sector is currently under pressure from lower-than-normal international prices and from the competition posed in Fonterra's traditional markets by increased milk volumes coming from the European Union. In the local market, the level of competition for the collection of raw milk from the farm gate varies between regions, indicating variable market penetration by independent milk processors. Canterbury is the most competitive region. In contrast, Northland is the least competitive region.



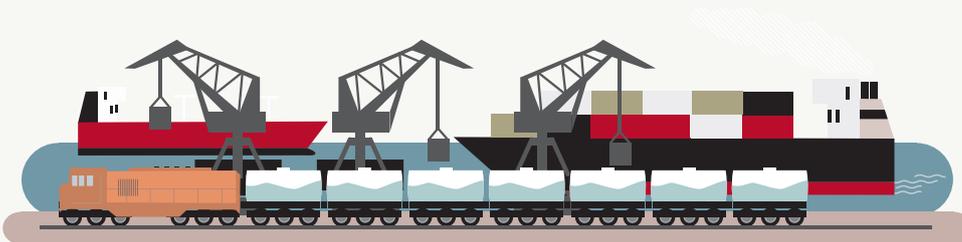
7. Calculated based on: Bank of New Zealand "New Zealand Online Retail Sales – Monthly Update: January 2016 online retail sales" Available at <https://www.bnz.co.nz/business-banking/support/commentary/online-retail-sales-index> Accessed 1 March 2015

Government priorities

While we are an independent Crown entity, we do consider the Government's priorities when we are planning and undertaking our work. In particular, the priority of "building a more productive and competitive economy" reflects much of the work of the Commission and our strategic objectives (as outlined in our accountability frameworks on pages 15 and 18).

We contribute to building a more productive and competitive economy and support the cross-government Business Growth Agenda by;

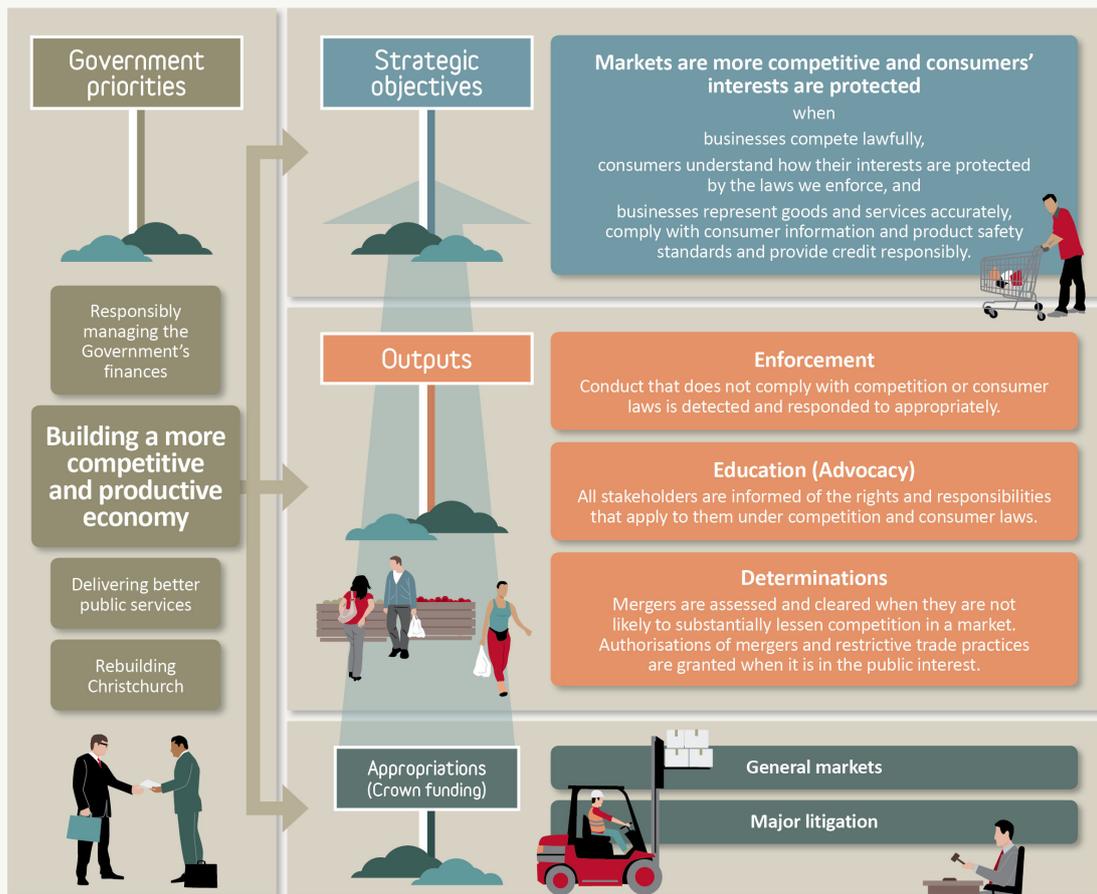
- providing a level playing field in which businesses can operate and take advantage of export opportunities
- providing the right environment for companies to invest and innovate by promoting competitive markets and ensuring that anti-competitive behaviour is detected and stopped
- ensuring suppliers of regulated goods and services have incentives to innovate and to invest
- helping New Zealanders get ahead financially by lifting financial knowledge and capability around consumer credit contracts
- undertaking a work programme to explore emerging technologies and their potential impact on the markets we regulate, primarily gas pipeline and electricity distribution businesses.



OUR STORY

Competition and consumer

Accountability framework



Our strategic objective

The strategic objective for our competition and consumer work is that markets are more competitive and consumers' interests are protected.

The Commission plays a crucial role in promoting competition and ensuring consumers are well informed and protected. When businesses compete on their merits, and provide accurate information, consumers benefit from improved prices, quality and choice.

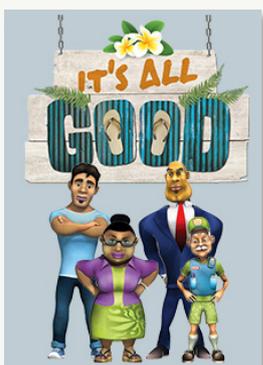
Through our work, we seek to ensure that:

- businesses compete lawfully
- consumers understand how their interests are protected by the laws we enforce
- businesses represent goods and services accurately, comply with consumer information and product safety standards and provide credit responsibly.

Our plan

Consumer legislation is designed to help protect the interests of consumers and promote fair competition. Providing information and advice to businesses and consumers about the Acts we enforce and how they apply is an important part of our role. Businesses need to know how to comply with the law and we need to make compliance easy. An important aspect of our work is therefore to help businesses understand their competition and consumer obligations, and to create incentives to encourage compliance. Consumers also need to be aware of their rights, which is why we introduced a series of 'Know Your Rights' brochures for both consumer and credit law, available in five languages.

By using education to raise awareness of the benefits of competition, we can increase levels of compliance with competition and consumer laws. We plan on continuing our work to provide advice, education and support to businesses and consumers throughout New Zealand. Where we see emerging issues or identify areas of concern, we target our efforts in these sectors. This allows us to focus our efforts cost-effectively where there is the most opportunity to improve compliance and protect consumers' interests. The construction sector will continue to be a particular focus area.



We are committed to protecting New Zealand consumers – especially vulnerable consumers – from harmful trading and lending practices. We will use innovative methods to build consumer knowledge about the laws we enforce, and consumer confidence. For example, in March 2016 we launched a series of animations designed to increase awareness of consumer credit laws in an engaging way.

We will use media of all forms to let New Zealanders know about businesses and business practices that are dishonest or pose a risk to consumers. By talking promptly and clearly to the public about our views on the types of trader behaviour that concern us, we not only prevent harm through warning consumers, but we also disrupt the practices of those who are trying to take advantage of consumers. We will continue to release reports on projects that we undertake to help provide New Zealanders with information on the state of compliance in certain sectors. Recent examples of this are the mobile trader and unfair contract terms projects.

Another focus will be increasing our work promoting product safety under the Fair Trading Act, taking enforcement action where necessary. We prioritise every product safety complaint we receive, and will act promptly on products that might harm public health including protecting the public from unsafe goods and goods that make unsubstantiated health claims.

While we operate under the premise that most businesses want to comply with the law, unfortunately there will always be businesses that deliberately operate outside the law. To ensure we identify intentional and unintentional breaches of the law, we put a lot of effort into detecting issues proactively as well as assessing complaints effectively.

In 2015 we released our Competition and Consumer Investigation Guidelines which clearly outline the process we go through during an investigation. We are committed to undertaking regular reviews and ensuring that we focus on the right things and our priorities are right during the lifetime of an investigation. Our aim remains to complete investigations promptly and efficiently.

The investigation guidelines go hand in hand with our Enforcement Response Guidelines which help determine what action to take to stop the behaviour, deter future breaches and remedy the harm. For the majority of cases this will be achieved without litigation. However, sometimes the most appropriate action is litigation, particularly where we seek to establish or develop precedent, for example in relation to recent legislative changes.

A large part of our work is determinations on merger clearances and authorisations. Determinations are demand driven, which makes it difficult to anticipate how many we may see in the future. Our current view is that we can expect to see a steady level of activity in this area in the next few years. When the collaborative activity clearance regime is introduced as part of the amendments to the Commerce Act, overall determinations activity is likely to increase. We receive a mixture of straight-forward and complex merger applications. The number involving global markets has increased recently, which makes maintaining the timeliness of our determinations more challenging since multiple jurisdictions and markets are involved.

To inform future investigations, analysis and decision making, we also analyse and evaluate previous decisions to help us understand how markets have evolved following a merger determination. Our focus is on our original analysis to see which predictions held true rather than whether a particular decision was right or wrong. In particular, we look at whether market conditions developed as we predicted, with the aim of learning which of our analysis techniques and types of evidence best serve their purpose.

Minimising harm and maximising benefit

Because we have limited resources, we focus our efforts where we can have maximum impact. Selecting investigations and areas of advocacy that target harm we have identified is an important part of using our resources well.

We will continue to work proactively to resolve problems before they become established. In some cases it might mean enlisting the support of other agencies, consumer groups, or industry bodies that can help us identify and resolve risks.

Each year the Commission produces a report identifying current issues and emerging risks that have the potential to affect markets or consumers. Based on analysis of information from a wide range of sources, including the Commission's own data as well as information from other government and community agencies, the Consumer Issues Report presents a picture of the issues concerning consumers in New Zealand. This work gives us a better understanding of where we should focus our attention.



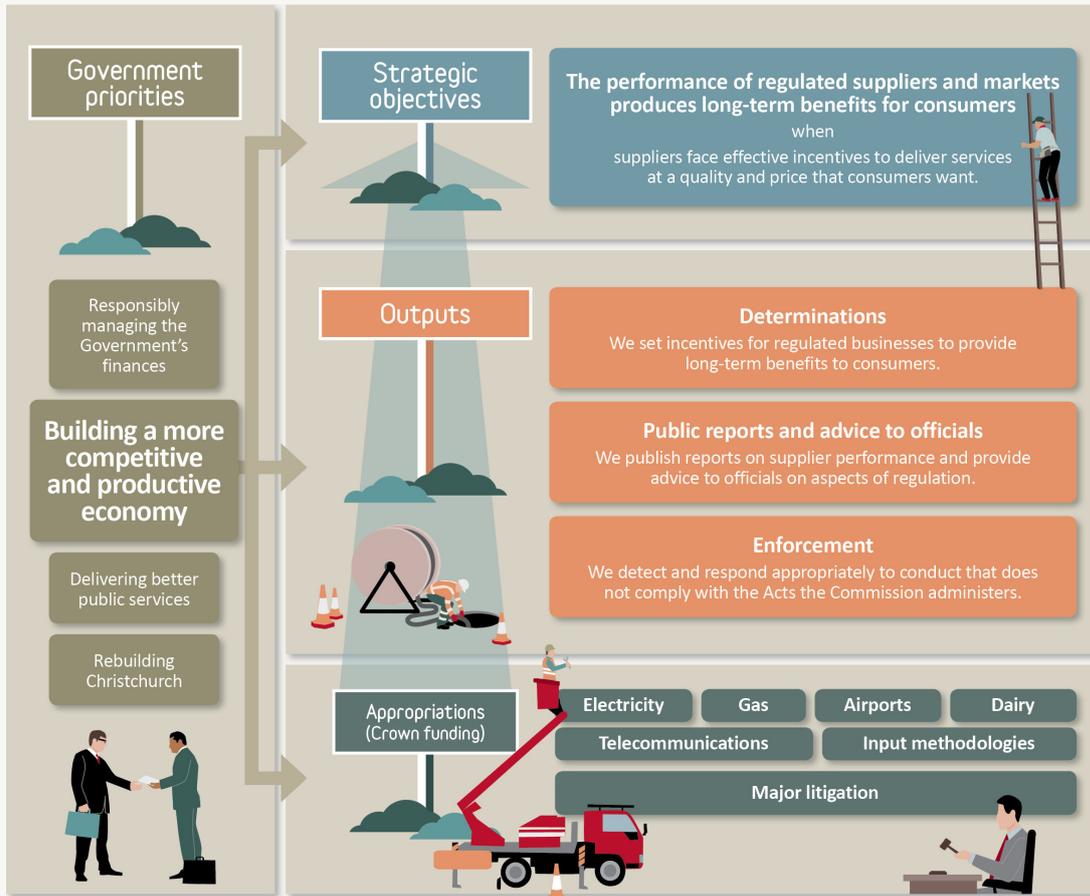
We also undertake proactive projects to address the identified risks, protect consumers, and minimise the number of complaints we receive. This is about working smarter and more creatively to address the underlying problems that cause harm to consumers. As a result of these changes we may see a reduction in the number of investigations we undertake, but an increase in our overall effectiveness.

Our performance

Our accountability framework on page 15 illustrates the work we do and the strategic objectives we aim to achieve from this work. Our statement of performance expectations contains more detail on what we do and how we will measure our performance. This is updated annually, with the most recent version available at <http://www.comcom.govt.nz/the-commission/about-us/accountability/>

Regulation

Accountability framework



Our strategic objective

The strategic objective for our regulation work is that the performance of regulated suppliers and markets produces long-term benefits for consumers.

By delivering targeted and effective regulation of goods and services in markets where there is little or no competition, we ensure consumers receive the goods and services at the price and quality they might get if the market was competitive. We work to ensure that prices are as reflective of costs as possible while ensuring that there are incentives for an appropriate level of investment.

Our plan

For economic regulation to be effective we must put in place appropriate incentives for suppliers to deliver outcomes that are for the long-term benefit of consumers. We have a range of ways to create incentives for suppliers mandated by our legislation. This can include determining price and quality paths, providing public commentary on the performance of suppliers and/or undertaking compliance and enforcement activities.

Regulatory decisions can have a significant impact on the value and operation of companies. We work with stakeholders to ensure that they understand the regulatory framework in which we operate and are able to participate in the decision-making process through consultation. Regulatory predictability is a core feature of effective regulation as it promotes incentives to invest (as suppliers understand how their potential investments are likely to be treated).

Providing understandable information is an important part of our role, as we can create incentives for suppliers by providing analysis and commentary on supplier and market performance. This information allows public recognition of good performance as well as the exposure of poor performance, and enables stakeholders to put pressure on suppliers to focus on the long-term benefit of consumers in their planning and performance (if this is not already occurring). We are committed to communicating this information in plain English and as effectively as possible.

Regulation is more effective where all parties meet their requirements. Our aim is to achieve voluntary compliance wherever possible. We do this by assisting suppliers to understand the rules and their obligations and engaging with them when we are developing rules. However, if a regulated business does not comply, we can take enforcement action. This can take the form of a warning letter, infringement notice, reaching a settlement, or seeking penalties or compensation through the courts.

Part 4 of the Commerce Act – markets with limited competition

The aim of Part 4 of the Commerce Act is to achieve outcomes in markets with limited competition that are for the long-term benefit of consumers and consistent with outcomes you would get in a competitive market. Currently we regulate electricity lines transmission and distribution services, gas pipeline services and specified airport services. Consistent with the Act, our work helps to ensure suppliers of regulated services:

- have incentives to innovate and invest
- have incentives to improve efficiency and provide services at a quality that reflects consumer demands
- share with consumers the benefits of efficiency gains
- are limited in their ability to extract excessive profits.

Electricity lines and gas pipeline businesses

Electricity lines and gas pipeline services are subject to information disclosure regulation, which provides us with quality information about their performance. This information gives us greater insight into the levels of investment and innovation being undertaken by suppliers. It also gives us a broader understanding of their profitability.

We also set price-quality paths for gas pipeline businesses and the 17 electricity distribution businesses that are not consumer owned. A price-quality path aims to limit the ability of suppliers to earn excessive profits, while also ensuring that consumer demands on service quality are met. The next price-setting event is for the gas pipeline businesses in 2017, followed by electricity distributors and Transpower in 2020.

We monitor supplier performance to detect breaches and look for ways to promote better compliance. We work to understand the reasons for breaches so we can address them effectively and prevent them happening again. Our focus is on compliance with both the price and quality aspects of the price-quality path.

Airports

Aeronautical and freight services, airfield services and specified passenger terminal services at Auckland, Wellington and Christchurch international airports are also subject to information disclosure regulation. Our focus is on ensuring sufficient information is available to interested persons to allow them to assess whether the outcomes are consistent with those produced in competitive markets.

We work closely with suppliers to help them understand their obligations and requirements.

Telecommunications

In the telecommunications area we will continue to promote competition in the fixed line and mobile markets through regulation of wholesale telecommunications services. We promote a greater understanding and transparency of telecommunications market performance through our monitoring activities and communication of our monitoring reports. We will also continue to monitor and enforce the information disclosure requirements faced by certain areas of the telecommunications wholesale sector.

We issue standard terms determinations (STDs), which set out the terms on which telecommunications service providers must provide wholesale services regulated under the Telecommunications Act 2001 to other telecommunications service providers. These wholesale regulated services are used to provide retail services to end-users. We can also make determinations about the terms of supply of regulated services (designated access services and specified services). These are made at the request of an access seeker or access provider.

We will review a range of existing services so that the regulatory framework remains up to date and does not place an unnecessary burden on firms. We will be working to support the Government's review of the Telecommunications Act, which is scheduled to be completed in 2017, and will implement any resulting changes.

Dairy

The aim of our dairy work is to assess the consistency of Fonterra's annual milk price calculations with the Dairy Industry Restructuring Act 2001 (DIR Act). Setting the base milk price provides an incentive to Fonterra to operate efficiently, while providing for contestability in the market for the purchase of milk from farmers.

The volume of other dairy work, including determinations and investigations, is demand driven and is dependent on the number of complaints or applications we receive.

Our performance

Our accountability framework on page 18 illustrates the work we do and the strategic objectives we aim to achieve from this work. Our statement of performance expectations contains more detail on what we do and how we will measure our performance.

This is updated annually, with the most recent version available at

<http://www.comcom.govt.nz/the-commission/about-us/accountability/>

ORGANISATIONAL HEALTH AND CAPABILITY

Our vision and values

The Commission strives for excellence across the organisation. Our values, shown below, are well established and we aim to uphold them in all our actions. These values also led to the creation of our vision statement: *Working to protect and promote the interests of New Zealanders*. This single sentence captures what each of us at the Commission strives to achieve in our decision making and performance.

EXCELLENCE

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

INTEGRITY

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

ACCOUNTABILITY

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

RESPECT

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

GOOD JUDGEMENT

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

Our capability themes

Maintaining and improving organisational health and capability is essential in helping us to achieve our outcomes.

We focus our capability improvement on three capability themes – Connect, People and Efficiency.

Our intention in the medium term is to build on our progress to strengthen our organisational health and capability. We aim to provide the right environment, tools, support and leadership to enable our people to do their jobs effectively and grow our capability as an organisation.

Connect

Our connect theme recognises that to do our job well we need to focus on how we connect with our stakeholders. This means listening to their needs and communicating with them in ways that are easy to understand. It also means identifying new methods of engagement. Communicating better internally is also important, sharing information and knowledge so we are best placed to deliver on our outcomes.

A key focus will continue to be on our education and information work related to changes to competition and consumer laws. This aims to promote voluntary compliance among businesses and raise awareness of rights among consumers. For example, building on our ‘Know Your Rights’ guidance we released a series of animations in March 2016 designed to increase awareness of consumer and credit rights.

We will continue our regular programme of stakeholder meetings and presentations, building transparent and robust consultation processes with stakeholders involved in regulatory decisions. We will maintain high levels of engagement with market analysts and advisers around market-sensitive regulatory decisions.

Online tools such as our website and e-newsletter (Bulletin) continue to be an effective and accessible mode of communication with stakeholders. These tools improve the way external stakeholders access the Commission. We will also increase our use of social media to communicate with stakeholders and the general public.



People

Our people strategy is aimed at ensuring we attract, develop and retain great people who are capable of performing at a high level, driven to achieve goals, and aligned with the Commission's values. Having capable people is vital to our ability to be an effective competition authority and regulatory agency so it is important that we are focused on updating our skills to remain current, efficient and effective.

We continue to invest in programmes that develop our people and organisational capability. We use feedback from employee surveys to inform development and business improvement opportunities. We take an integrated approach to recruitment and development, including promoting equal employment opportunities and ensuring business improvement in this area is consistent with the seven key elements of being a good employer (as set out by the New Zealand Human Rights Commission).

Our recent People Leader programmes and targeted coaching continue to develop our leadership capability. This investment, alongside other technical professional development, has seen a lift in the performance of the organisation as a whole.

At an organisation-wide level we will continue providing learning and development opportunities to keep developing our people capability. In this context we continue to develop more tailored professional development and knowledge sharing opportunities linked to the sectors we work with and the specialist skills and knowledge we require (eg, economics, law, finance, engineering, investigations).

Efficiency

Our efficiency theme is aimed at simplifying our processes and the way we work, as well as making it easier to do business with the Commission and within the Commission.

We understand the impact that our processes and decisions can have on businesses and are committed to improving not only the timeliness but also the efficiency of these. We continually review our internal settings to make sure any barriers that are slowing us down are identified and removed, and our limited resources are properly prioritised to achieve the greatest impact.

A key part of this is ensuring effective use of information systems (IS) to enable efficiency improvements. We use IS to standardise and streamline processes as well as providing the infrastructure to support their efficient operation. Our Information Systems Strategic Plan (ISSP) provides clarity about how our information systems can support our business over the medium to long term and sets out the road map for information systems investment.

We also continue to look for service improvements and cost efficiencies. We have put in place a number of shared service arrangements with the Electricity Authority and the Tertiary Education Commission. We will continue to explore other possible back-office shared services arrangements and seek out opportunities to use or provide shared services with other agencies where it makes good business sense to do so. We will also continue to adopt All-of-Government contracts to achieve value-for-money improvements.

Evaluating our capability and health

An important part of our operating philosophy is continuous improvement, which requires us to measure and monitor our progress towards achieving our outcomes. This helps ensure we are making the right investments to support our long-term capability needs.

An important part of monitoring our capability and health is through our annual employee engagement survey. Since commencing this survey in 2012, and working with staff to implement changes following each survey, our employee engagement scores improved and have been maintained at a high level.

We also monitor our people profile, staff turnover levels and average number of years of service to ensure these reflect a healthy workplace profile.

While we are not one of the agencies directly involved in the programme, we actively use the Benchmarking Administration and Support Services (BASS) metrics to evaluate our spending on our HR, finance, procurement, information and communications technology, and corporate and executive support functions. We aim to keep our administrative and support costs as a proportion of our total organisation running costs in line with the median for the BASS small agency cohort.



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