

Quarterly Snapshot

July–September 2022

The Commerce Commission is New Zealand’s primary competition, fair trading, consumer credit and economic regulatory agency.

This quarterly snapshot provides a high level overview of work underway at the Commission.

This is our first snapshot. Future snapshots will continue to build year-to-date information.

For more information about us and about our work, please go to www.comcom.govt.nz.



Enquiries to the Commission

Consumers and businesses contact the Commission to raise concerns about activities and behaviours that may be against the laws we enforce. All contacts are important to us and directly and indirectly inform our investigations, enforcement, and other regulatory work.

The following graphs indicate how many enquiries the Commission has received this quarter and in which regulatory area. This first snapshot also refers to the total number of enquiries the Commission received in 2021/2022.

Enquiries received Q1 2022/2023

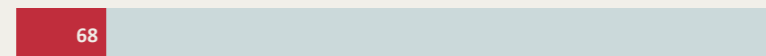
Fair Trading Act 1986



CCCFA 2003



Commerce Act 1986



Fuel Industry Act 2022



Enquiries received July 2021–June 2022

Fair Trading Act 1986



CCCFA 2003



Commerce Act 1986



Fuel Industry Act 2022



Comment on 2021/2022

We received 7,653 enquiries across our main regulatory responsibilities during 2021/2022, a lower number than the previous 3 years. 2022/23 enquiry numbers are higher than the previous 4 years, suggesting that the lower 2021/2022 total is an outlier.

As in previous years, most of the enquiries we received related to the Fair Trading Act and were concerns about false and misleading behaviour. Key issues include the quality of the service provided, disputes relating to refunds, promotions, problems with billing and contractual terms.



Investigations and Compliance

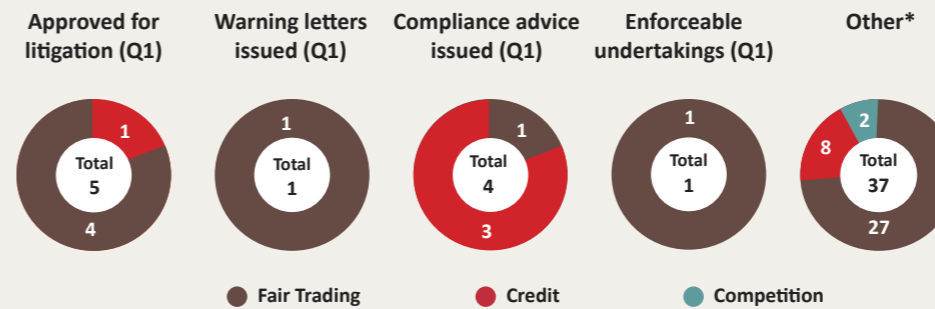
The Commission has a large number of investigations and compliance activities underway at any one time.

We use our enforcement response guidelines in deciding whether to open an investigation and what compliance and enforcement action to take at the end of an investigation.

This table indicates how many active investigations the Commission has underway. The outcomes of completed investigations are also indicated.

	Active investigations Q1	Completed investigations YTD
Fair Trading	52	33
Credit	47	12
Competition	18	2
Infrastructure Regulation	4	0
Market Regulation	2	0

Investigations outcomes



*The outcomes of 36 other investigations were concluded utilising the full range of responses under our enforcement response guidelines.

Quarterly comment

The Commerce Commission has filed civil proceedings in the Auckland High Court against electricity lines company, Vector Limited, for failing to meet minimum reliability requirements for 4 consecutive years.

Australian skincare company, Ego Pharmaceuticals (Ego), plead guilty to two charges under the Fair Trading Act – for making unsubstantiated representations about the Sun Protection Factor (SPF) of two sunscreen products.



Litigation

The Commission is able to take enforcement action under legislation. The Commission can prosecute businesses and individuals.

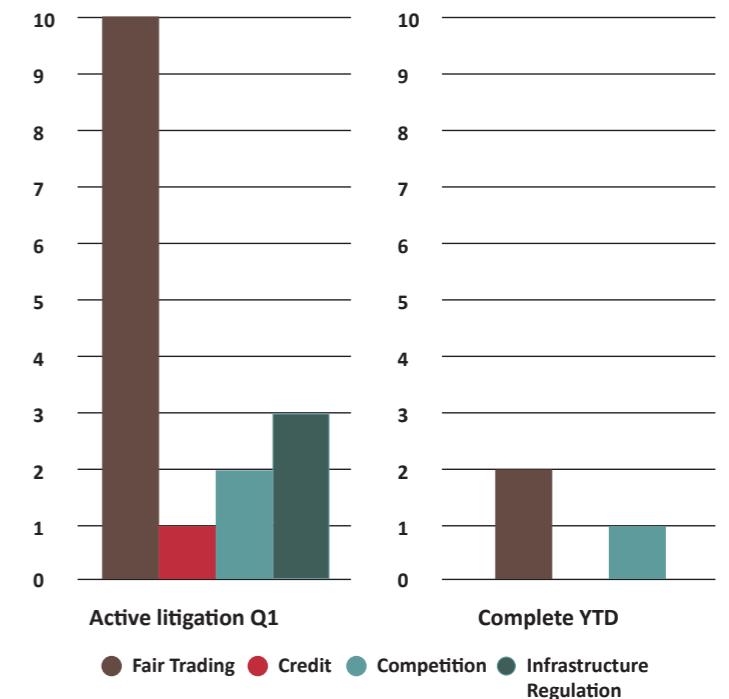
These graphs indicate the litigation that the Commission has underway.

Quarterly comment

A prominent online retailer owned by The Warehouse Group was fined \$840,000 for promotional claims on its online store, which were liable to mislead consumers in how long its daily deals would run for and the quantity of stock available.

The High Court ordered Objective Corporation Limited (Objective) to pay a \$1.54 million penalty for its acquisition of Master Business Systems Limited (MBS) after the Commission brought proceedings. Objective admitted that its acquisition of MBS substantially lessened competition for the supply of software for building consent authorities, in breach of section 47 of the Commerce Act 1986.

Litigation overview Q1 2022/2023





Projects of Significance

The Commission has significant programmes of regulatory work underway. Our regulatory role in infrastructure regulation includes aspects of the New Zealand supply chain for essential services; such as electricity, gas, fibre and airports. Regulated markets include; telecommunications, fuel, groceries and dairy.

Highlighted on the right is a selection of the pieces of work that the Commission is currently involved in. The list is not exhaustive.

Further information on each piece of work, and many other pieces, is available on our website, including how you can engage with us.

Feedback from New Zealand businesses, consumers, and sectors we regulate is important to us in relation to that work.

	Input methodologies for energy and airports review	Electricity distribution targeted information disclosure review	Market studies 3 – Residential building supply	Grocery Industry Competition Bill	New retail payment system legislation	Telecommunications retail service quality
Previous milestones	July–August 2022: Submissions and cross-submissions due on process and draft framework.	February–April 2022: Review commenced. May–August 2022: Tranche 1 draft decision paper and submissions.	August–September 2022: Draft report, submissions and consultation conference.	March 2022: Final report issued for the market study into the grocery sector. July 2022: Government response to the final report.	May 2022: Legislation takes effect. September 2022: Draft compliance guidance for interchange fee regulation.	May 2022: Open letter addressing transparency and inertia issues in the residential mobile market published. July 2022: Open letter increasing consumer awareness of TDRS non-membership published. September 2022: Response to submissions and next steps published.
October–December 2022	Emerging views phase. November 2022: Workshops on wider electricity issues.	Reviewing submissions. 25 November 2022: Tranche 1 final decisions published.	6 December 2022: Final submissions and final report published.	Grocery Industry Competition Bill introduced.	Interchange fee limits applied and issue compliance guidance; initial market monitoring (information requests).	October 2022: Product disclosure: Emerging Views paper published for consultation. December 2022: TDRS membership and non-membership list published. Customer service: Monitoring consultation paper to be published for consultation.
Future milestones	Mid 2023: Draft decisions due 22 December 2023: Final decision due.	Mid 2023: Tranche 2 draft decisions paper. November 2023: Tranche 2 final decision.	Government response to final report.	8 January 2023: Submissions on the Bill close.	March–April 2023: Initial observations Late 2023: Assess impact of interchange fee regulation.	January–March 2023: Final decision for Product Disclosure: Emerging Views paper. Final decision for Customer service: Monitoring consultation paper.

Providing information on the performance of energy and airport sectors

Another important part of our regulatory work is improving public accessibility and scrutiny of performance information of regulated suppliers such as electricity distribution businesses (EDBs), gas pipeline businesses, and our three international airports. Monitoring and analysing performance information, and reporting on what we observe allows us to highlight the performance of suppliers and ensure that consumers have access to the information they need.

In July–September 2022, we published updated databases and performance summaries for gas pipeline businesses, and trends in performance reports relating to EDBs. We also published our assessment of Wellington International Airport’s pricing decisions and expected performance over a 5-year period (2019–2024). This found that the airport’s pricing decisions and allocation of risk were generally appropriate after considering external factors including the impacts of COVID-19 on its customers.



Competition clearances and authorisations

The Commission administers a voluntary clearance regime for mergers and acquisitions. We take enforcement action to prevent anti-competitive transactions if prior clearance is not sought.

We also grant an authorisation for an acquisition that would result in a substantial lessening of competition if the public benefits from the acquisition and are found to outweigh the competitive harm.

The data indicates the number of mergers, acquisitions clearances, and authorisations that are underway or have been decided year to date.



Q1: 1 July – 30 September 2022		Merger clearances s66	Merger authorisations s67	Collaborative activity clearances s65A	Trade practices authorisations s58
	Decided	4	0	0	1
Undecided at end of quarter	2	0	0	1	

YTD: Outcomes 2022/2023		Merger clearances s66	Merger authorisations s67	Collaborative activity clearances s65A	Trade practices authorisations s58
	Cleared unconditionally	3	0	0	N/A
	Authorised	N/A	0	N/A	1
	Cleared with divestment	1	N/A	N/A	N/A
	Declined	0	0	0	0
	Withdrawn	0	0	0	0
	Sol/SoUI issued	3	N/A	0	N/A

Quarterly Comment

The Commission concluded four applications for merger clearance and one trade practices authorisation application in Q1. There are three applications undecided at the end of the quarter.

Three of the decided merger clearance applications were complex, and went to the Statement of Issues stage. Two went to Statement of Unresolved Issues. One of these cases was THL/Apollo which was cleared subject to an undertaking to divest assets.



Official Information Act

The Official Information Act gives New Zealand the right to request official information. We proactively publish selected official information responses on our website to improve transparency. We publish responses that do not compromise confidentiality, privacy or ongoing investigations.”

Quarterly Comment

The requests this quarter included a large number of information requests about enquiries and complaints that are made to the Commission by the public about our regulatory areas.

The requests were made by the media, businesses and law firms on behalf of their clients.

Q1 2022/2023

48 OIA requests received

53 Number of OIAs completed (including received during 2021)

