



STATEMENT OF INTENT

OUR APPROACH FOR 2017-2022





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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
Telecommunications Act	Telecommunications Act 2001

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

Commonly used terms

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.
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.
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.
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.
Regulated entities	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 goods or services.

OVERVIEW

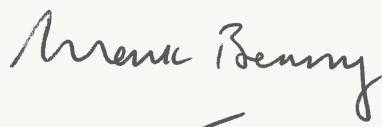
Introduction

The Commerce Commission is New Zealand's competition, consumer and regulatory agency. Our vision is that New Zealanders are better off because markets work well and consumers and businesses are confident market participants. We have an impact on and contribute to the achievement of this vision through our work 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 five years and details how the Commission intends to achieve these through three strategies.

The SOI is complemented by our statement of performance expectations (SPE), which is produced annually and sets out our performance expectations and forecast financial statements for the year ahead.

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



Dr Mark Berry
Chairman



Sue Begg
Deputy Chair





Foreword from the Chairman

As New Zealand's competition, consumer and regulatory agency, we play an important part in ensuring businesses compete fairly, and consumers are not misled by traders and are protected when they borrow money. As an enforcement agency we also make sure those that do not play by the rules are held to account. In sectors where competition is limited our regulatory responsibilities ensure that consumers are not disadvantaged by that lack of competition.

There are many facets to our role across our three work streams – competition, consumer and regulation. But there is a common purpose. In everything we do, we strive to make New Zealanders better off. Over the past 12 months we have worked to crystallise our strategic framework so that it best reflects this fundamental purpose and drives our priorities over the next five years. This statement of intent details the strategic objectives we want to achieve or contribute to over the next five years.

Our strategy builds on the steps we are already taking to identify the key issues impacting consumers and businesses across New Zealand, and prioritise our resources for maximum impact in our focus areas.

In the past 18 months, for example, we have targeted the consumer credit sector to tackle conduct that is causing harm in our communities. We have specifically focused on mobile traders and short-term lenders, leading to increased education and a significant increase in litigated cases and the first jail sentence in a prosecution we initiated.

Under the Fair Trading Act, recent prosecutions of companies such as Bike Barn, Youi and Trustpower have sent a clear message about the types of misleading marketing representations and conduct that are unacceptable. We have also taken proactive steps to identify and address unfair contract terms in key consumer markets, notably telecommunications, electricity and gyms. This has resulted in companies working with us to change a number of terms in their contracts that we consider are unfair to their customers.

As a result of our ongoing actions, businesses are gaining a greater understanding of our enforcement approach and priorities, and consumers are seeing tangible action that gives them confidence the law is being enforced.

In our competition work, we continue to focus on ensuring consumers benefit from markets that are dynamic and efficient, with the result that goods and services are provided at competitive prices. Recent merger applications, including Vodafone/Sky Television and Fairfax/NZME, have highlighted the complex issues we must consider and our requirement to protect consumer interests. This continues to be particularly important given the global trend for increased business consolidation.

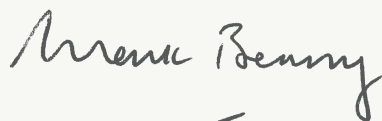
As part of our broader drive to develop our research and analytical capabilities across the organisation, we intend to continue producing reports on our consumer work and the sectors we regulate to improve our own and the public's understanding of performance and compliance issues.

Strong and sustainable infrastructure that benefits New Zealanders is central to this country's future economic prosperity. Infrastructure plays a critical role in connecting consumers with services that are essential to everyday life, including electricity, gas and telecommunications.

The regulatory regime the Commission oversees is now well established across several different regulated sectors. In particular, the Part 4 regime involving the energy sector and major international airports is seen as offering stability, predictability, and incentives to invest. This is exemplified by the recent input methodologies review. Our decisions on these regulatory rules and processes were not appealed, improving the certainty of the regime's outcomes. It also showed the benefit of open and constructive engagement with regulated entities on the issues that affect them.

Cross-government engagement is another priority for us, particularly in ensuring our expertise can be utilised in policy development and legislative reviews. We have recently contributed to the reviews of the Commerce (Cartels and Other Matters) Amendment Bill and the Telecommunications Act and look forward to implementing the new regimes if they pass into law. Key regulatory tasks for the Commission under proposed changes to the Telecommunications Act in the next two years would be to develop input methodologies – modelled on Part 4 – for broadband pricing post 2019 and to step up monitoring of service standards.

Overall, the strategic framework outlined in this document is built on our intent to continuously improve how we can contribute to New Zealanders being better off. It sets a clear direction for the next five years and we look forward to meeting the challenge.



Dr Mark Berry
Chairman

OUR ROLE

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.

Our strategic framework



In everything we do, we work towards making New Zealanders better off. Our vision is that New Zealanders are better off because markets work well and consumers and businesses are confident market participants.

To achieve this vision, we have two strategic objectives:

- markets work well
- consumers and businesses are confident market participants.

These strategic objectives reinforce each other. Well-functioning markets help to provide confidence for consumers and businesses to participate in them. At the same time, the more confidence participants have, the better markets are likely to function.

To have an impact and contribute to the achievement of our strategic objectives, we have three overarching strategies that will drive our approach over the next five years. We will:

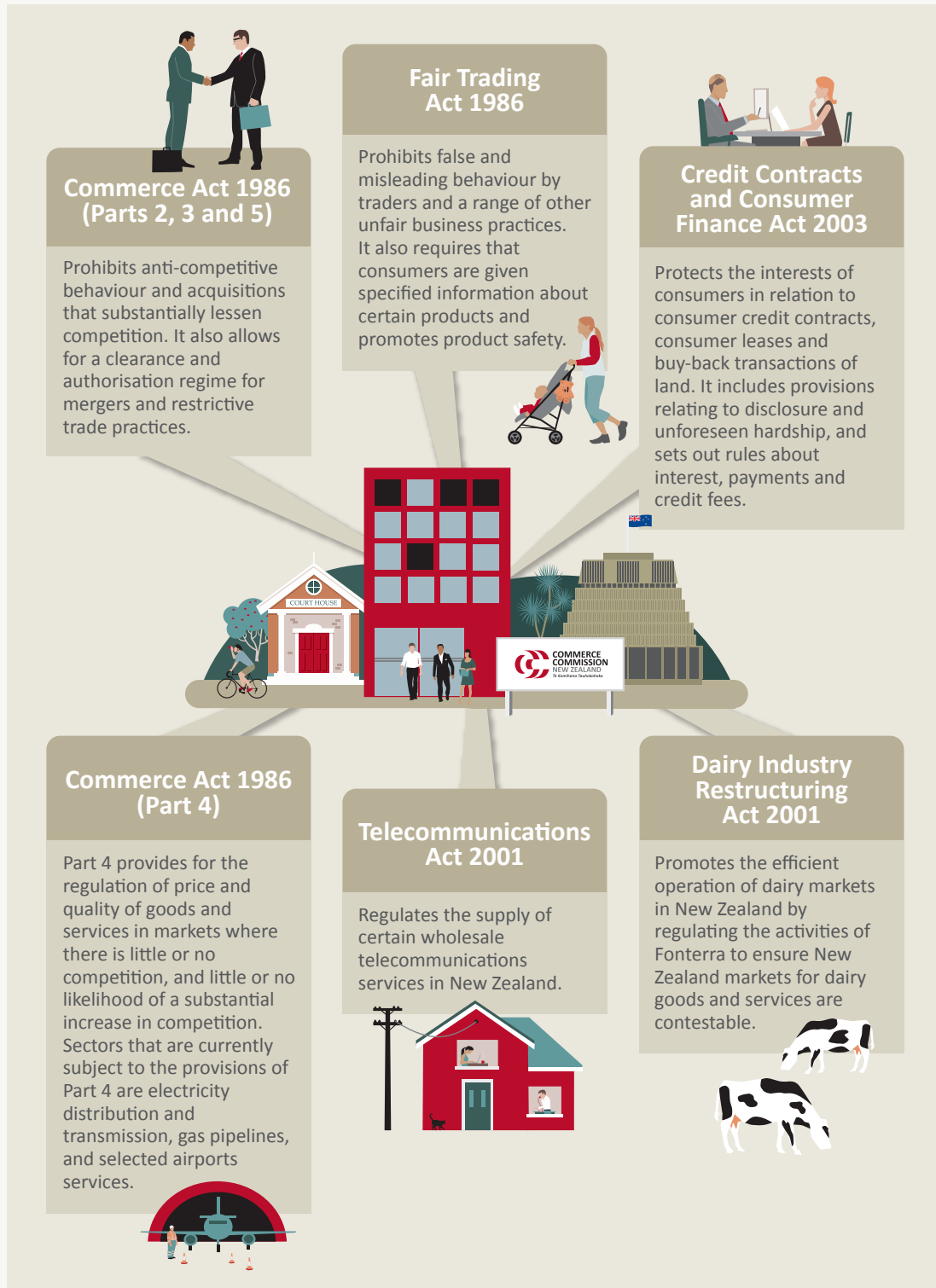
1. Seize opportunities to have the greatest impact
2. Protect, inform and empower consumers and businesses
3. Be trusted, influential and high-performing.

The first two strategies determine what we are going to do and how we will do it. The third sets out how we must shape our organisational health and capability to deliver on the other strategies. Each is detailed further in section 4.

Our values form the foundation of our strategic framework and guide the way we operate. These are described further in section 5 on our organisation health and capability.

Relevant legislation

To support well-functioning markets and confident market participants, the Commission has responsibility under five key pieces of legislation.



How we contribute to making New Zealanders better off

The Commission's work is aimed at supporting an environment where markets work well and consumers and businesses are confident market participants. Section 4 outlines how we plan to achieve these two strategic objectives. However, these are not an end in themselves. We want to achieve these strategic objectives because of the impact they have on New Zealanders being better off. This can be both an economic impact and a wellbeing impact. While these impacts are influenced by much more than just the work of the Commission, and it can be challenging to measure the link between the work of competition agencies and economic growth, the Commission's work does have an important role to play in making New Zealanders better off.

In well-functioning markets, competition is a key driver for greater productivity and economic growth. When traders operate according to the rules and we hold those who do not comply to account, consumers can be confident about purchasing goods and services. Competition also creates incentives for businesses to innovate, improve efficiency and produce products and services at a price and quality demanded by consumers. By working to prevent anti-competitive behaviour and protect consumers from harm, the work of the Commission, alongside policies promoting competition, has a key role to play in supporting an environment where markets can work well and competition can flourish.

Some markets are characterised by limited competition – for example infrastructure suppliers in the electricity, gas and telecommunications sectors. These markets work well when regulation provides incentives and pressures that encourage similar outcomes to those found in competitive markets. It means consumers, including downstream businesses, are more likely to pay prices that reflect the cost and quality of the goods or services they receive.

Our second strategic objective provides direct wellbeing benefits to New Zealanders through increasing their confidence as market participants. Individuals are better off when they are confident they can trust the businesses they interact with and that they will not be misled or mistreated by them. For business owners, their wellbeing is improved when they are confident that they are able to compete fairly and understand the rules.

There is also an economic benefit when consumers and businesses are confident market participants. Confident consumers are more likely to participate in our markets and engage directly with businesses. Confident businesses are more likely to invest in their assets, including employing more staff and taking up opportunities to innovate and grow.

This confidence is equally relevant to New Zealand's regulated entities. When the providers of our key infrastructure assets are confident that the rules that govern them are predictable and stable, they will continue to invest to ensure these essential services remain strong, sustainable and fit-for-purpose.



OPERATING CONTEXT

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's current economic performance is strong by global standards. The Treasury has forecast economic growth of around 2.8% over the next five years, while the labour force participation rate continues to sit at a record level of just over 70%.¹ Median household income has risen 3% per year above inflation in the post-Global Financial Crisis recovery phase, which has improved the purchasing power for most households.

In general, New Zealand consumers are well served by our competitive markets. New Zealand is now ranked 13th on the Global Competitiveness Index, ahead of countries we might compare ourselves with like Australia, Ireland and Canada. This ranking has improved each year since 2011.

However, markets in New Zealand are also often concentrated as a result of our geographic isolation and small population. In the past two years, for example, we have received three of the most significant merger applications in our history in the fuel, media and telecommunications markets. These mergers reflect a growing trend of consolidation in sectors of significant importance to New Zealand consumers. In concentrated markets, the possibility of higher prices, more limited choice and lower-quality goods and services for consumers increases, as does the potential for cartel behaviour.

The Commission is continually taking account of technological advances and associated business models that can have a big impact on consumer behaviour and present unique competition and regulatory challenges. At the consumer level, we are seeing a change in how New Zealanders shop. As highlighted in our 2016 Consumer Issues report,² bricks and mortar retail is facing increased competition from online retail. This increased competition can be good for consumers, driving more choice, convenience and value. But it also brings risks given the greater anonymity available to online traders and the limited ability of consumers to assess the quality of the products they are purchasing.

We remain alert to opportunities to evolve the regulatory regime in light of industry development, as well as looking to build on constructive engagement with our stakeholders, and improve understanding about the performance of infrastructure markets. For example, technological change in the electricity sector is likely to begin impacting how New Zealanders use energy in the medium term. It is too early to quantify the exact impact these changes will have on energy consumption, but the physical lines network will continue to be crucial infrastructure in our future.

1. http://www.stats.govt.nz/browse_for_stats/income-and-work/employment_and_unemployment/LabourMarketStatistics_HOTPDdec16qtr.aspx

2. <http://www.comcom.govt.nz/the-commission/consumer-reports/consumer-issues-report/>

Similarly, 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. The continued growth in popularity of video streaming services continues to drive growth in demand for data across both broadband and mobile. The way New Zealanders consume entertainment and information online is constantly evolving. Maintaining strong and sustainable telecommunications infrastructure that benefits New Zealanders is central to this country’s future economic prosperity.

Who we work with

There are many other organisations that also contribute to well-functioning markets and confident market participants. These organisations range from consumer and user groups, and consumer advocacy and advice agencies, to other state entities and the Ministers and ministries which oversee policy across our competition, consumer and regulatory work streams. We work cooperatively with these agencies and organisations to achieve our strategic objectives and ensure New Zealanders are better off.

Key relationships

Domestic	International
<p>The Ministry of Business, Innovation and Employment (MBIE) has a major role in monitoring our performance. We also regularly work with its consumer protection, energy and communications teams and make submissions or provide expertise on its policy programme.</p> 	<p>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.</p> 
<p>We work closely with the Financial Markets Authority (FMA) and Electricity Authority (EA) to ensure that collectively we deliver better outcomes for consumers in markets where we are both active.</p> 	<p>The Commission has a close relationship with the Australian Competition and Consumer Commission (ACCC). Associate Commissioners are cross-appointed to each other’s boards.</p> 
<p>Our consumer investigations team maintains strong relationships with the New Zealand Police and Serious Fraud Office to ensure serious criminal offending is investigated by the appropriate agency.</p> 	<p>We are part of a global network of similar competition law enforcement and regulatory agencies, and have information sharing agreements with Australia and Canada.</p> 
<p>The Commission works closely with community agencies across the country. Our relationships with budget advisers and community lawyers enable us to gather information on conduct causing consumer harm. We also provide educational material to consumers through this channel to improve their understanding of their rights.</p> 	<p>New Zealand is a member of the Organisation for Economic Co-operation and Development (OECD) and the Commission actively participates in the work of the Competition Committee of the OECD, including through membership of the Bureau.</p> 

STRATEGIC OBJECTIVES

Strategic objective 1: Markets work well

Our fundamental role is to support an environment that enables markets in New Zealand to function well. Predictability and transparency are important features of well-functioning markets.

The outcomes we see when succeeding in our role are:

- traders understand and operate according to the rules
- there is effective competition between businesses
- market power is not abused
- mergers do not substantially lessen competition
- regulated businesses are incentivised to perform
- accurate information is available to both consumers and businesses and they are empowered to act on it.

The Commission contributes to markets working well through each of our work streams. Our competition work seeks to prevent market power being abused, mergers and restrictive trade practices that substantially lessen competition, and cartel and other anti-competitive coordinated behaviour. Our consumer work supports well-functioning markets by protecting consumers through enforcement and ensuring businesses are not able to get an advantage over competitors through misleading conduct. Our regulation work in markets with little or no competition aims to use regulation to incentivise regulated suppliers and promote outcomes similar to those seen in well-functioning competitive markets.



Strategic objective 2: Consumers and businesses are confident market participants

Well-functioning markets build consumer and business confidence by allowing participants to understand and take part in a transactional economy. Consumers need access to information to make informed choices and assess whether a business is trading fairly.

Consumers are confident market participants

Consumers' confidence in markets is built on trust. They want to be able to trust they are not being misled, whether about pricing, quality or terms and conditions, and trust that New Zealand's regulated infrastructure is reliable and efficient. Where that trust is breached, they want to feel assured we can, and do, take action.

The Commission promotes consumer confidence by taking a leading role in promoting compliance, prosecuting and deterring the worst violations of consumer trust and confidence.

We also work to ensure that consumers have the right combination of information, capability and knowledge so that they are better able to assert their own rights and influence the behaviour of businesses.

In regulated markets, we support consumer confidence by publishing analysis of how regulated businesses are performing and ensuring regulation has a positive impact on the performance of regulated suppliers.

Businesses are confident market participants

Businesses, in turn, need to be confident that the rules are clear and enforced to ensure competitors do not receive an unfair advantage by circumventing the rules. Businesses and investors also want to be assured that the regulatory regime we are responsible for is predictable in order to continue to invest and innovate.

The Commission has a key role to play in promoting business confidence through our advocacy and enforcement work in general markets. Our advocacy work seeks to enhance business understanding of the legislation we enforce to prevent market behaviour that is anti-competitive or harmful for consumers. Our enforcement approach, therefore, must be seen to be even-handed and predictable so that all businesses have confidence to invest and innovate without anti-competitive or misleading conduct by competitors undermining that investment.

In regulated markets we set as well as enforce the rules and regulations applying to regulated suppliers. It is important that we make the rules and regulations as clear as possible and apply them in a predictable manner to enhance the confidence of regulated businesses.

How we will assess our performance

We provide more detail on how we will assess our performance against our strategic objectives in our statement of performance expectations. This is updated annually, with the most recent version available at <http://www.comcom.govt.nz/the-commission/about-us/accountability/>.

STRATEGIES

We have three strategies to deliver on our strategic objectives.

Strategy 1: We will seize opportunities to have the greatest impact

There are three main parts to this strategy:

→ **Understanding:**

- > threats to consumers or competition, now and in the future
- > the performance of regulated businesses
- > opportunities available to us
- > the environment in which we operate and what that environment might look like in the future

→ **Prioritising** our efforts in focus areas to address harm

→ **Deciding** how to have the maximum impact on the issues we identify, including considering creative and innovative solutions.

Like any public sector agency, our resources are not infinite. We must focus on what matters. In practice, this means we will be further developing our research and analytical capabilities across the organisation, including deepening our engagement with stakeholders and communities and growing our partnerships across government and the non-governmental organisation sector, to gain market insights and improve our understanding of the needs of businesses and communities. This will better enable us to identify the issues causing the most harm in New Zealand.

Crucial to our impact will be when we decide to take action, when we decide not to get involved and choosing the right action to tackle a particular problem. Identifying the most effective allocation of our resources is essential to our success. As part of this, we will look beyond our traditional methods for approaches that may have greater impact.



Strategy 2: We will protect, inform and empower consumers and businesses

Strategy two has three key elements:

- **Protecting** consumers and businesses from behaviours or market structures that harm consumers or competition
- **Informing** consumers and businesses about their rights and obligations
- **Empowering** consumers and businesses to participate in markets, to resolve issues when they arise, to take action if their rights are infringed upon and to influence the actions of regulated businesses.

An essential part of our role is to protect New Zealanders (both consumers and businesses) from harm caused when markets do not work well. We will continue to explore different ways of protecting New Zealanders, including through informing and empowering. We will enforce legislation where we have been unable to prevent harm through other means. This will include leveraging prosecutions to change behaviour across a broad sector, and taking cases to set precedents where the law is unclear. The practical implications of this strategy will be largely determined by the priorities we have identified on an annual basis.

We will build on the steps we have already taken to improve how we inform and empower consumers. In particular we want to be innovative about the methods and channels we use to educate consumers and businesses about their rights and responsibilities. The development of our animated series 'It's All Good' on YouTube was a recent example of this and we are keen to build on this and other similar ideas to ensure we engage a broad cross-section of New Zealanders.



We will also continue our active business engagement programme, whereby we host compliance workshops and provide guidance to businesses throughout New Zealand. Where we see emerging issues or identify areas of concern, we will target our efforts in these markets. We will continue to release reports on projects that we undertake to provide New Zealanders with information on the state of compliance in certain markets. Recent examples of this are the mobile trader, short term finance and unfair contract terms projects.

While much of our regulation work is highly technical and often complex to communicate, we are steadily improving the way we make information available so that the performance of regulated suppliers is comprehensible to the public. In recent years we have made adjustments to how we consult with businesses, investors and analysts on major projects such as the input methodologies review. We will continue to refine the way we engage and communicate, as this is an influential factor in maintaining a transparent and predictable regulatory regime.



Strategy 3: We will be trusted, influential and high-performing

Our third strategy focuses on the performance we need to deliver as an organisation to meet our objectives. As detailed earlier, we want consumers and businesses to be confident market participants. It is also vital that they have confidence in us and trust that we act in the best interests of New Zealanders.

Strong relationships with stakeholders across government, business and in the community are essential for the Commission. We need to be accessible, responsive and easy to deal with. As an organisation we have made significant improvements in how we engage with our stakeholders and we intend to build on this work.

Being influential enables us to create strong partnerships, help change behaviour that is causing harm, and develop policy and regulatory structures that are fit-for-purpose. To achieve this we will continue to be as transparent as possible in our work, seek collaborative opportunities and tell our stories confidently.

In order to be trusted by New Zealanders, we also need to be a high-performing organisation. This involves attracting, developing and retaining excellent people and working efficiently to deliver value for New Zealanders.

We want to be an employer of choice, recognised for our stimulating work and a culture that fosters personal growth. We will continue to focus on staff development and recruitment to support this. We are committed to ensuring our staff have a good understanding of the sectors we regulate and the challenges faced by all participants in the market. In particular, we are focused on promoting equal employment opportunities and recruiting people who live by our values. We ensure that 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.



As a Crown entity, we are funded by New Zealanders and must operate in the most efficient way possible. This means improving the efficiency and timeliness of our decision making and simplifying our processes to make it easier for our stakeholders to interact with us. We will deliver value through systems improvements, focusing our decision making on what matters most and maximising the benefits of having competition, consumer and regulatory functions in the one agency.

ORGANISATIONAL HEALTH AND CAPABILITY

To be effective in making New Zealanders better off, we need to be a high-performing organisation. Our third strategy, outlined on page 15, illustrates how we will do this. This includes making the best use of public money, being trusted by our stakeholders, being influential, and having the right people in the right roles making the right judgements and trade-offs at the right time. This is reflected in our values, which provide a strong foundation for all our work.

Our values

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

How we evaluate our health and capability



We are committed to continuous improvement, which requires us to monitor our organisational capability and health.

Our annual employee engagement survey shows that our employee engagement scores have been maintained at a high level. We work with staff to implement changes following each survey to continue to improve the way we work. We also hold biennial full-Commission development days to empower our staff to contribute ideas that can improve any aspect of what we do and how we do it.

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 administrative and 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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