COMMERCE COMMISSION NEW ZEALAND
Te Komihana Tauhokohoko

CONSUMER ISSUES 2015

Acknowledgements

The Commission would like to acknowledge the support of the following agencies. Their provision of data and reports has assisted with the level of analysis achieved in this assessment:

- Australian Competition and Consumer Commission (ACCC)
- Commission for Financial Capability (CFFC)
- Consumer NZ (CNZ)
- Financial Markets Authority (FMA), and
- New Zealand Federation of Family Budgeting Services (NZFFBS).

The Commission would also like to acknowledge the contributions (particularly those who attended our Mangere workshop) from:

- Auckland Micro-Financing Initiative (AMFI)
- Banking Ombudsman
- Commission for Financial Capability
- Christians Against Poverty (CAP)
- Financial Markets Authority (FMA)
- Financial Services Federation (FSF)
- Ministry of Business, Innovation and Employment (MBIE)
- New Zealand Institute of Economic Research (NZIER)
- The Salvation Army, and
- Viola Pacific Budgeting Services.

This paper follows the international risk standard ISO 31000.
It has been reviewed for external release, including review against our guidelines for quantitative analysis.

Consumer Issues 2015

KEY POINTS

Examining the wider consumer environment

- The Christchurch rebuild represents only 20% of the total national construction activity.
- Construction sector activity, including the Christchurch rebuild, is a current priority for the Commerce Commission.

The retail environment

- Supermarket, food, and beverage equates to almost half of core retail sales.
- Growth in online sales is significantly higher than store-based sales and now accounts for at least 6% of core retail sales.
- There are regulatory challenges in applying consumer law to online traders based overseas.

The influence of technology on consumers

- Consumers are increasingly reliant on internet-based intermediaries.
- The growth of online subscription services may expose consumers to unfair contract terms.
- Social media is increasingly being used for trade purposes such as online sales, marketing, and customer reviews.
- Increased mobile usage potentially exposes more consumers to bill shock.

Commerce Act complaints

- Growth in complaints in 2014 can be attributed to three matters.
- The majority of Commerce Act complaints are single complaints about individual traders.
- There has been an increase in domestic leniency requests.
- Industry associations feature frequently in our cartel investigations.

Consumer credit complaints

- Finance companies are the most complained about lenders.
- Mobile traders are the second most complained about lenders.
- Motor vehicle credit contracts generate 30% of complaints.

The commercial environment

- The number of domestic business enterprises continues to decline.
- Many industries in New Zealand are highly concentrated, with continuing concentration in some industries.
- The number of clearance applications for mergers is rising but remains down from pre-GFC levels.

The consumer credit environment

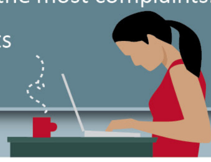
- The financial market is concentrated with banks accounting for 80% of total financial assets.
- The arrival of peer-to-peer lending is likely to cause some disruption in the market.
- The high level of household indebtedness could impact consumers if interest rates return to pre-GFC levels.
- Credit card debt also continues to grow.

Vulnerable consumers

- There are pockets of deprivation across the country, not just in well-identified suburbs.
- The housing to income ratio in certain locations increases vulnerability.
- There is a culture of debt acceptance, particularly in South Auckland.
- Mobile vendors are prevalent in vulnerable communities.

Consumer complaints

- Consumer law reform publicity is the likely cause of increased complaint numbers in 2014, with complaints now returning to previous levels.
- There has been a decrease in extended warranty-related complaints.
- Online trading generates 33% of all Fair Trading Act (FTA) complaints. This is twice the level of complaints generated by physical stores.
- 25% of complaints relate to 24 traders.
- Telecommunication providers and domestic appliance retailers continue to generate the most complaints.
- Christchurch rebuild complaints have significantly reduced.

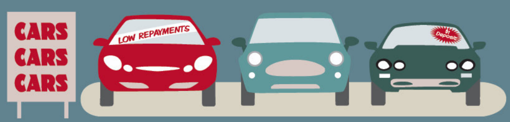


Source: Commerce Commission Consumer Issues Report 2015

The issues of greatest potential impact to consumers

- → Lenders charging unreasonable fees
- → Insufficient disclosure by some non-bank lenders
- → The mobile trader business model continues to impact on vulnerable consumers

- → A small number of traders generate a disproportionate amount of complaints
- → Telecommunications, small domestic appliance retail, and motor vehicles are the most complained about products or services



- → Scams and fraud continue to cause detriment to consumers
- → Online trading is the most complained about trading method
- → Contracts and invoices are the second most complained about trading method
- → Vulnerable communities suffer proportionally greater harm
- → Industry associations feature frequently in our cartel investigations
- → Premiumisation and misleading origin claims continue to mislead consumers about the quality, properties, and value of products
- → Supermarket misrepresentations may cause low individual detriment but high cumulative detriment
- → Subscription traps expose consumers to unanticipated costs

Contents

Purpose, methodology and structure

The Consumer Issues 2015 report uses ISO 31000 methodology and in this context:

- an issue is a relevant event that is impacting consumers or the consumer environment,
- a risk is an uncertain event, that should it eventuate, will impact consumers or the consumer environment.

Purpose

1 This assessment is part of an annual process that looks at the issues currently affecting consumers from trading activities, and identifies potential risks which could affect consumers in the 2015/16 business year. This assessment was drafted in March 2015 and draws upon 2014 calendar year complaints data. This is the second year the assessment has been completed.

2 The purpose of the assessment is to inform the Commerce Commission's internal planning by identifying issues that may affect markets or consumers, or provide opportunities for protecting consumers and promoting competition.

3 This assessment does not set out the issues that the Commission has agreed to commit resources to. Rather, it is a tool which helps us to understand the consumer environment and assists us to prioritise our work against other organisational priorities.

4 We have elected to share publicly the findings of this assessment as the information may have wider benefit to others interested in competition and consumer matters.

Limitations on complaints information

5 Where this assessment refers to the volume of complaints against a particular trader, or identifies a particular type of complaint, readers should note the following caveats:

5.1 The complaints data on its own does not itself indicate that any law has been breached.

5.2 The complaints data also does not establish that any harm has been caused to any consumer or competitors.

5.3 Larger traders are likely to generate more complaints as a function of their scale. We have not adjusted for this.

5.4 An orchestrated complaints campaign against a trader can produce high complaint numbers.

5.5 Where the public is aware that the Commission is unable to act on a matter, this can discourage complaints from the public.

5.6 Complaints volumes for a trader can be about a single matter or multiple matters. Some matters that attract a high level of publicity can generate a large volume of complaints.

5.7 The complaints data only reflects what consumers have chosen to report to the Commission or to other organisations that have in turn provided information to the Commission. Some complaints on the same matter are likely to have reached other complaints bodies instead of the Commission.

6 The data is, however, indicative of a level of public concern about a trader or matter, and we use it for that purpose.

Methodology

7 The assessment draws on 2014 complaints data and information from a number of sources including: consumer organisations, Commission complaints data, expert knowledge from Commission staff, official government reports and statistics, academic reports, and media articles.

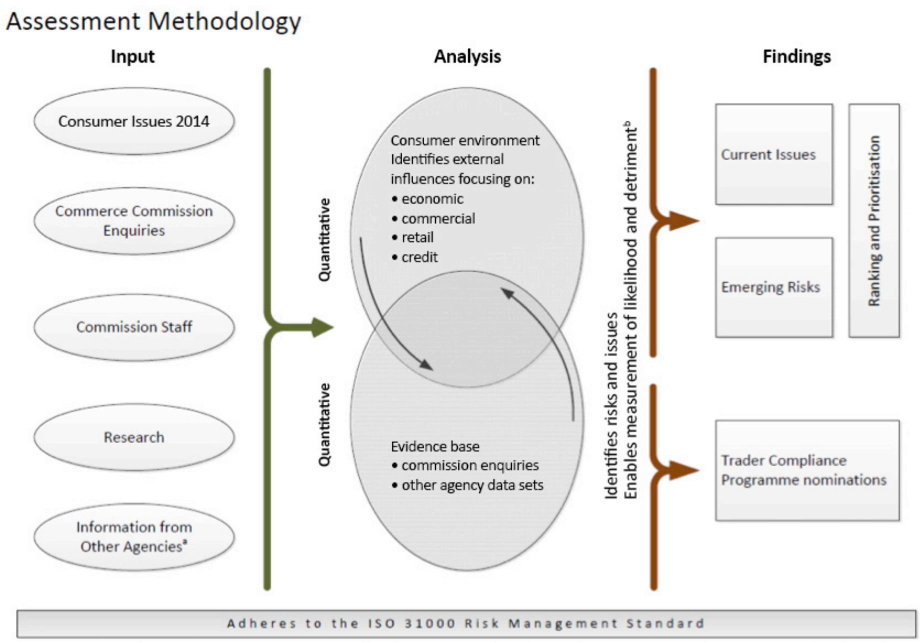
8 The assessment started with a series of workshops drawing on the knowledge of Commission staff and representatives from a number of consumer and government agencies. These workshops provided a focus for researching the consumer environment, in particular the economic, commercial, retail and credit settings.[1]

9 We examined Commission quantitative data from public complaints to gain insight into the main concerns of consumers and businesses working within the relevant law - the Commerce Act 1986 (CA), Fair Trading Act 1986 (FTA) and Credit Contracts and Consumer Finance Act 2003 (CCCFA).

10 Using both the consumer environment study and the insight drawn from public complaints, we identified current issues and emerging risks that may impact consumers. Each issue and risk was validated and rated against a likelihood and detriment scale by a panel of Commission staff.[2]

11 Finally, Commission complaints data was revisited to identify the traders we may consider working with to improve compliance levels as part of our Trader Compliance Programme.[3]

12 All of the quantitative analysis contained in this assessment has been conducted in line with Commission guidelines for quantitative analysis and has been subjected to an internal independent quality assurance process to ensure robustness, replicability, and accuracy.[4]



Key: a Information from other agencies includes those listed in Acknowledgements, page 2.
b How we determine likelihood and detriment is discussed in Section 5.

1. The workshops used the PESTELM methodology (Political, Economic, Social, Technological, Environmental, Legal and Media), and included approximately 32 Commission staff and 14 representatives from CAP, NZFFBS, Viola Pacific Budgeting Services, Salvation Army, CFFC, MBIE, FMA, and AMFI.
2. As per ISO31000, the international standard for assessing risk.
3. The Programme looks to work with traders to improve their compliance efforts over a two-year period. Focusing on those traders willing to engage voluntarily with the Commission in a positive and collaborative manner should produce the best results.
4. The guidelines for quantitative analysis can be viewed in full at http://www.comcom.govt.nz/the-commission/commission-policies/guidelines-for-quantitative-analysis/

13 Within the text, footnotes provide supplementary commentary and are identified by numbers at the end of sentences, whereas, endnotes provide information sources and are identified by roman numerals.

Analysis notes

14 The quantitative analysis contained in this report is drawn from all 2014 Commission contact data (10,871, which includes complaints), a sample of CNZ contact data (470), and NZFFBS presented-debt information (98,288), for the 2014 calendar year or part thereof.[5] [6]

15 The Commission's complaints data is used in this assessment at face value. While a complaint does not necessarily mean that there is a breach of law, it can indicate something of potential concern.

16 Records have been analysed at an aggregate level to identify patterns showing the industries, traders and issues causing the most concern to consumers.

17 Comparing data from multiple systems across agencies attracts an unknown degree of inconsistency and data error. Where possible we have standardised data for comparison to minimise this impact.[7]

18 The number of complaints received about non-compliant trading may not represent the true extent of an issue affecting consumers. For example, a recent study of complaints about one trader identified that the Commission received only one-sixth of the number of complaints made on the trader's Facebook page. Conversely, a large number of complaints on a single matter may not necessarily be an indication of non-compliance. For example, the Commission sometimes receives multiple complaints on matters that do not breach our legislation.

Structure

19 Section 1 examines the wider consumer environment to provide the context within which the Competition Branch operates.[8] It considers the economic, commercial, retail and credit settings and how those settings might impact consumers.

20 Section 2 focuses on our analysis of CA data (complaints, merger clearances and leniency requests) to identify matters that may impact consumers. It also compares our findings with international partners to identify any commonality.

21 Section 3 sets out the findings from our analysis of FTA complaints, and considers information received from CNZ. It also compares Commission complaint patterns with Australian consumer agencies.

22 Section 4 focuses on our analysis of CCCFA complaints, and provides analysis of data received from NZFFBS.

23 Section 5 sets out the key issues and risks from our analysis in the previous sections. This section lists the current issues and emerging risks identified from both the consumer environment study, and our analysis of complaints and other data. It also rates the level of potential impact on consumers from each issue and risk identified using the same information.

24 Section 6 describes our Trader Compliance Programme, names the traders currently working with us in the programme, and lists the traders that generated 25% of FTA complaints.

---

5. Due to a change in recording systems, CNZ provided relevant consumer data from 1 July 2014 to 31 December 2014.
6. NZFFBS data reflects the number of presented debts, rather than families using their services.
7. This included standardisation of trader names and categorisation by sector and industry.
8. The Commerce Commission consists of three Branches: Organisational Performance, Regulation, and Competition. The Competition Branch administers the Fair Trading Act, the Commerce Act, and the Credit Contracts and Consumer Finance Act.

Using the information to inform our work planning

25 Like all regulators, the Commission has limited resources, so we must focus our efforts where we can have the maximum impact. This report helps us to prioritise and target our resources to greater effect meaning we can select the cases that are likely to have the greatest impact for consumers, and have more meaning for businesses. By taking this approach we are more likely to protect vulnerable consumers (see Section 1 for a description of vulnerable consumers).

26 This is not about finding matters to investigate and prosecute; it is about taking a holistic approach to resolving a problem. We may choose to use existing tools, including prosecution, or be required to design new interventions to ensure we have the necessary impact.

27 The assessment also provides the Commission with another way to assess whether or not we have been effective. Monitoring the issues and emerging risks year to year, tells us what is changing, whether our work has had an impact and what we need to focus on next.

2014 Report

28 Our first Consumer Issues report in 2014 was completed solely for the purpose of internal planning and we found that we already had work programmes in place to address some of the issues raised in that report. For other key issues identified we developed new responses.

- → The 2014 report identified that 25 traders generated 25% of our complaints. This was significant considering the Commission received complaints about 1,600 different traders that year. In addition, within those 25 traders, telecommunications and domestic appliance retailers were disproportionately represented. As part of addressing this we revitalised our Trader Compliance Programme and focused it on disproportionately represented retailers. The programme works proactively with traders to address systemic issues and put in place the compliance programmes. This is an effective way to achieve behavioural compliance with traders who by nature of their size generate a lot of complaints and have the potential to generate a lot of consumer harm.
- → Our existing focus on product safety was confirmed by the 2014 report. To further address this issue, in particular in relation to baby cots and toys for children under 3, we extended our programme of product safety work and prioritised any incoming complaints. We increased the number of product safety inspections we perform and over the last 18 months completed 221 inspections. We have also produced an easy to understand guide for traders on their product safety responsibilities, which has now been translated into Simplified Chinese. Other communication tools such as video are being worked on in the area of product safety to ensure that businesses are aware of their obligations and consumers know what to look for.

→ In the consumer credit space one of the issues raised was mobile traders, sometimes referred to as truck shops. Mobile traders do not have fixed retail premises in the traditional sense, operating mobile shops or selling door to door from catalogues and brochures. They sell a range of different products and are predominantly found in lower socioeconomic communities. Their goods are often of lower quality and/or higher prices than comparable products available at mainstream retail outlets. They sell predominantly or exclusively on credit, layby, or other deferred payment terms. To better understand the business practices of mobile traders and to monitor and improve legal compliance in the sector, we commenced a national project which has involved visiting 32 truck shops and issuing 29 compliance advice letters. We are continuing to follow-up with a number of mobile traders, and recently laid charges under the Crimes Act against one individual. A report on this project was recently released to the public and can be accessed from the Commission website.

2015 Report

29 The issues identified in this report will help to inform our work programme planning. Through that planning we will develop a set of priority areas for the year. Some of these will be a continuation of existing priorities and work already established in these areas will continue through the 2015/16 business year. For example, our work on enforcement of the laws available to us for the benefit of vulnerable consumers is one of the top priorities for the Commission. This is reflected in the issues raised in this assessment and in turn this will continue to be reflected in our business plan.

Section 1 – Examining the wider consumer environment

30 In this section we examine the wider consumer environment, which provides the context within which the Commission operates. It considers the economic, commercial, retail and credit settings and how those settings might impact consumers. Understanding this context helps us to gauge the potential impact of developments and trends affecting consumers. This section is not intended to consider whether the developments or trends identified fall within the scope of the laws we enforce.

Key points

- The domestic economy was growing at a faster pace than the Organisation for Economic Cooperation and Development (OECD) average driven by: high construction activity, high net immigration rates, low interest rates, household consumption, and business investment.
- The Christchurch rebuild represents only 20% of total national construction activity.
- Construction sector activity, including the Christchurch rebuild, is a current priority for the Commission.

Economic influences

31 The state of the economy has a significant influence on the New Zealand marketplace and a direct influence both on how businesses operate and how consumers behave. For example, when consumer confidence is low, consumers tend to save more rather than spending.

32 In December 2014 the New Zealand Treasury reported that the New Zealand economy was in its fifth year of expansion after the lows of the Global Financial Crisis (GFC). Strong construction sector activity, high net immigration rates, low interest rates, and low unemployment (despite high inward migration) had all contributed to this expansion, with gross domestic product (GDP) expected to grow by 3.5% by March 2015.[i]

33 Household spending was also reported by the Reserve Bank of New Zealand to have grown at a solid pace over the 2014 calendar year, with private consumption estimated to have increased by 4.1 %. Consumer spending was being supported by strong growth in income, low interest rates, low inflation, and above-average consumer confidence.[9] [10] [ii, iii]

34 However, there always remains the potential for factors such as fluctuating commodity prices (for example dairy or fuel), drought, and/or changes in the housing market to affect the economy.[11] [iv]

General construction boom

35 Strong construction sector activity is a key component of the nation's economic growth, and the sector in general remains a priority for the Commission.

9. Business investment reflects a 'catch-up' from reduced investment levels during the GFC.
10. Statistics NZ reports that unemployment has fallen to 5.7% for the December 2014 quarter, a 2.6% decline from the preceding year, and that 65.7 of every 100 adults were then in some form of employment.
11. Since this report was drafted, a decrease in the commodity price paid for dairy products has had a substantial impact on the New Zealand economy.

36 The second National Construction Pipeline report, released in October 2014, states that New Zealand is undertaking its biggest construction boom in 40 years. That boom is predicted to peak in 2016 with an estimated $34 billion investment for that year alone. The Christchurch rebuild constitutes approximately 20% of the total national build activity.[v]

37 Building consents for new dwellings (particularly focused in Auckland and Christchurch), including apartments, were recently at their highest level since August 2007 (but still 31% below the peak experienced in January 2004).

38 For the year ended October 2014, building consents for all buildings totalled $14.2 billion. Residential building consents comprised $9.3 billion and were led by proposed construction activity in Christchurch, Auckland, Waikato, and the Bay of Plenty.[vi]

39 The cost of house construction in New Zealand has recently been the subject of widespread public discussion. A recent NZIER report, undertaken for MBIE, identified that the low construction labour costs were offset by low construction labour productivity, high material costs, and stronger building codes, making the construction of a house in New Zealand similar to the cost of building one in Australia.[vii]

The Christchurch rebuild

40 The Christchurch rebuild remains a Government and Commission priority.

41 Current GDP growth for Canterbury is estimated to be higher than the New Zealand average, peaking at 5% in September 2014.[viii] Rebuild work is predicted to fall off quickly after 2018.

42 Since 4 September 2010 (when the first earthquake struck), over $2.3 billion in building consents has been identified as rebuild related.[12] However, the value of all building consents for the same period is $10.7 billion, including almost 19,000 new dwellings consented.[ix]

43 Rebuild construction activity underpins increased employment demand in Canterbury. This has flowed onto industries supporting construction, and the consumption demand of its new workers. For example, there has been a 15% rise in regional employment in the retail trade, and the accommodation and food services industry group.[x]

44 International experience shows that post-disaster environments can provide opportunities for fraud, anti-competitive conduct, and the targeting of vulnerable persons by some traders.

The commercial environment

Key points

- The number of domestic business enterprises continues to decline.
- Many industries in New Zealand are highly concentrated, with continuing concentration in some industries.
- The number of clearance applications for mergers is rising but remains down from pre-GFC levels.

45 Competition between businesses drives productivity and growth in the economy. It encourages businesses to be innovative and efficient. This competition benefits consumers by providing greater choice and better quality products and service, and keeps prices down.

12. Only direct replacement of a building at the same site is counted as a rebuild-related consent, so this measure underestimates the extent of rebuild activity.

The size and shape of New Zealand business

46 As of 29 August 2014, there were 444,479 businesses in New Zealand.[13 xi] This is a 6% decrease on the preceding financial year, and a continuation of a longer term trend of businesses closing outnumbering businesses opening in New Zealand in each of the last five years.

47 New Zealand is unusual among developed nations in regards to the extent of its geographic isolation. The market is comparatively small with uneven and low population densities spread across the country. Small and isolated economies such as New Zealand's are more susceptible to regionalised markets and concentrated industries.[14]

48 Structural characteristics like these can facilitate domestic cartel formation and conduct.[15] Over the last three years we have noted a rise in the number of clearance applications, although numbers are still down from pre-GFC levels, and an increase in leniency requests for domestic cartel conduct.

A high degree of concentration of New Zealand industries

49 Many industries in New Zealand are highly concentrated, and they are often vital to the nation's economy. The Business Operations Survey (BOS), produced by Statistics NZ, offers a broad perspective of industrial concentration by surveying every sector across the country.[16 xii]

50 While the definition of an industry by Statistics NZ is generally broader and less detailed than those markets normally considered by the Commission, the results still identify respondents' perceived concerns about concentration in some industries.

51 The BOS noted increasing aggregation, between 2012 and 2013, in the following industries:[17 xiii]

- Agriculture, forestry, and fishing support services (26% to 33%)
- Telecommunications (20% to 33%)
- Rental, hiring, and real estate services (27% to 34%)
- Retail trade (18% to 23%).

52 The BOS accumulated data for businesses self-reporting a captive market, or a maximum of two competitors, also indicated high aggregation in the following industries:

- Motion picture (44% of respondents)
- Publishing (40% of respondents)
- Commercial fishing (40% of respondents)
- Electricity, gas, water and waste services (38% of respondents)
- Non-metallic mineral production (35% of respondents)
- Rental, hiring, and real estate services (34% of respondents).

13. Statistics NZ refers to these as business enterprises in their reporting.
14. The Commerce Commission has previously stated to International Competition Network (ICN) members that New Zealand "market factors may result in more limited competition and/or higher barriers to entry" when compared to larger and more accessible economies such as the United States of America.
15. Cartel conduct includes illegal price fixing, output restrictions, allocation of customers, market sharing, and bid-rigging, amongst other anti-competitive behaviours.
16. The BOS, produced annually by Statistics NZ, is a modular sampling survey of New Zealand businesses. Statistics NZ reported an 80.7% response rate to the latest survey, which represents 5,667 responding businesses. These responses are then extrapolated to represent the size of the New Zealand market.
17. For example, 18% of agricultural businesses surveyed reported that they held a captive market with no effective competition. This equates to 400 agricultural businesses reporting that they have limited or no competition.

Mergers in New Zealand markets

Table 1: Clearance applications for mergers[18]

2006	2007	2008	2009	2010	2011	2012	2013	2014
19	21	17	5	13	8	12	11	14

53 The number of clearance applications for mergers has risen following the GFC, though they remain down on previous peak levels. Two applications for authorisation were also received in 2014: one for a merger and the other for a restricted trade practice.[19]

54 The complexity of clearance applications remains a prevalent theme, especially where cases concern markets which are already concentrated and/or global transactions are involved. Such global transactions invite close co-operation with competition authorities abroad.

55 In 2014, as a result of global consolidation occurring in the pharmaceutical industry, there were a number of related clearance applications and surveillance matters. In a number of those cases the Commission liaised closely with the ACCC and the Federal Trade Commission (FTC).

The retail environment

Key points

- Supermarket, food, and beverage equates to almost half of core retail sales.
- Growth in online sales is significantly higher than store-based sales and now accounts for at least 6% of core retail sales.
- There are regulatory challenges in applying consumer law to online traders based overseas.

56 The FTA makes it illegal to mislead consumers, give false information, or use unfair trading practices. By its nature the FTA has a strong focus on retail activity and this is reflected in complaints to the Commission.

18. Clearance requests by year available from the clearances register at http://www.comcom.govt.nz/business-competition/mergers-and-acquisitions/clearances/clearances-register/

19. This information can be accessed in the Commerce Commission Merger Authorisation Register available at http://www.comcom.govt.nz/business-competition/mergers-and-acquisitions/authorisations/merger-authorisation-register/

The size and composition of New Zealand retail

57 Core New Zealand retail sales for the year ending 30 September 2014 totalled approximately $54 billion.[xiv 20] The total value of retail sales rose 3% for the third quarter year from 2013.[21 xv xvi]

58 Key contributors to retail sales by value are:[22]

- supermarket, grocery stores, food, and beverage (43%)
- hardware, building, and garden supplies (9%)
- pharmaceutical and other store-based retailing (8%)
- department stores (7%)
- clothing, footwear, and accessories (6%)
- accommodation (5%)
- electrical and electronic goods (4%).[xvii]

59 Complaints to the Commission about sales in these key retail areas do not reflect their proportion by value. For example, electrical and electronic goods are the most complained about products, despite comprising only 4% of all retail sales.[23]

Online retailing

60 Online retailing continues to grow, offering New Zealand consumers access to a broader marketplace. It currently accounts for at least 6% of core retail spending (as defined by Statistics NZ) with a Bank of New Zealand (BNZ) report noting that domestic online retailers account for approximately 58% of online sales.[24 xviii]

61 Online sales have increased by approximately 20% for the third quarter of 2014 (purchases from off-shore retailers are up 28%), when compared to the previous year, in a BNZ report. By comparison, store-based retail grew by approximately 3.5% for the same period.

62 Reading complaint narratives of our online related complaints showed that the majority of these related to domestic traders (81%).[25] Commission enforcement options apply to both domestic and international traders, but the practicality of applying these off-shore is less effective. For example, when an offshore trader refuses to respond to the Commission during an investigation or fails to address compliance issues after receiving compliance advice.

63 The Domain Name Commissioner reported in January 2015 that 108,000 (18%) of web addresses linked to domestic domains (eg, .nz and .kiwi), are registered to a non-New Zealand address in the registrant's contact details.[xix]

---

20. Statistics NZ details the core retail industries as excluding motor vehicles and fuel (another $17.3 billion in sales). Retail is separate from the wholesaling industry which generated $84 billion in sales for the same period.
21. Third quarter year is the 12 months through to 30 September, as opposed to a calendar or financial year.
22. Bricks and mortar retailers with an online sales component have the value included as total sales. Purely online retailers are recorded in the survey as non-store based retailing, the value of which is too low to be included in this list.
23. This is explored further in Section 3 – Consumer complaints.
24. Statistics NZ excludes online sales by domestic retail stores from its online retail sales figures. There is also variability in reported percentages depending on which source is used. Exchange rate fluctuations can also affect the value of recorded transactions.
25. Forty per cent of online complaint narratives were read to provide some qualitative insights into the quantitative complaints data story.

64 Online and traditional retail purchases reflect our population demographics, with 75% of purchases occurring in the North Island. However, the goods purchased online differ significantly from those purchased through traditional retail stores:[26]

- Variety, department, and other 26%
- Groceries and liquor 14%
- Recreation, toys and games 14%
- Electrical and electronic 14%
- Fashion and accessories 12%
- Furniture, housewares, and hardware 9%
- Daily deals (group buying) 5% (daily deal sales have decreased 16% over the last year).

Consumer law reform

65 A number of changes to the FTA came into effect on 17 June 2014. Key changes include that:

65.1 online traders must declare they are in trade, to ensure consumers are aware of their rights under the Consumer Guarantees Act (CGA) and the FTA;

65.2 retailers must compare the benefits of extended warranties with protections consumers already have under the CGA;

65.3 consumers have new cancellation rights when they purchase a product or service as a result of door-to-door or telemarketing sales methods; and

65.4 businesses must be able to substantiate product and service claims.

66 Provisions prohibiting the inclusion of unfair terms in standard consumer contracts also came into effect from 17 March 2015.

67 Already the Commission is receiving complaints related to these provisions, particularly complaints about whether people selling things online are ‘in trade’ and about the ability of traders to substantiate the claims they make.

The consumer credit environment

Key points

- The financial market is concentrated with banks accounting for 80% of total financial assets.
- The arrival of peer-to-peer lending is likely to cause some disruption in the market.
- The high level of household indebtedness could impact consumers if interest rates return to pre-GFC levels.
- Credit card debt also continues to grow.

68 The high degree of average household debt in New Zealand increases the vulnerability of consumers to market fluctuations, lending practices, and external factors such as the increasing cost of housing.

26. By percentage of total online spend.

A concentrated market

69 The FMA notes that New Zealand's financial markets are small, concentrated and highly connected. Fewer than 30 registered banks account for approximately 80% of total New Zealand financial assets, with the four largest banks controlling 88% of banking assets. Non-bank lending institutions now account for 3% of intermediated credit (down from 9% in 2007).[27 28 xx xxi] With only 3% of the intermediated lending market, non-bank lenders generate a disproportionate number of complaints to the Commission.

70 The annual KPMG Financial Institutions Performance Survey (FIPS) for non-bank lenders identified that this sector had a record 2013/14 year with a $133 million increase in profits. The report also noted that non-bank lenders are concerned about retail banks venturing outside of their areas of expertise and 'poaching' customers for personal and vehicle loans.[xxii]

71 The FIPS report also identified a degree of industry nervousness around a potential disruptor entering their market. The arrival of peer-to-peer lending has been likened to the disruption caused to retail by the arrival of Amazon.

Consumer debt levels

72 According to the Reserve Bank, household debt increased six-fold, in dollar terms, in the 20 years to 2011. The average household indebtedness now sits at approximately one and a half times the average annual household income.[xxiii]

73 Household debt servicing costs have decreased from approximately 14% of household income in 2007 to just under 10% of household income in 2014. This decrease in servicing costs is largely attributed to lower interest rates from 2007 onward.[xxiv]

74 Housing loans currently comprise approximately 85% of average household debt servicing costs.[xxv] However, the December 2014 Roost Mortgages housing affordability report noted that first home buyers, earning the median income for the 25 to 29 year age-group, would be paying approximately 54% of their take home pay to service the loan on a $305,000 (lower-quartile house price) house. In Auckland a first home buyer would use 99.7% of their pay to service the mortgage on the average lower-quartile priced house ($546,800).[xxvi]

75 It is reported that Auckland capital house values increased by an average of 33% in November 2014 and prompted many home owners to borrow against the new equity. Increased mortgage payments, coupled with the inevitable increase in council rates, will put further pressure on limited incomes and cash flow.[xxvii]

76 Interest only loans now reportedly comprise approximately 25% of current mortgage lending.[xxviii] Preliminary survey data from the Reserve Bank of New Zealand suggests that property investors still tend to make the greatest use of interest only mortgages.[xxix]

---

27. Non-bank lending institutions comprise both deposit taking and non-deposit taking institutions. Deposit taking includes institutions such as building societies and credit unions. Non-deposit taking includes institutions, such as finance companies, that source their funding through equity, bank loans, and wholesale funding.

28. Financial intermediation facilitates the transfer of financial resources and risk between different people and businesses.

77 By comparison, Australian media has reported 43% of all new loan approvals (by banks with loan books greater than $1 billion) were for interest only loans in the December 2014 quarter. The Australian Reserve Bank is quoted as attributing 31% of that new lending to owner occupiers.[xxx]

78 Credit card debt continues to increase and, according to the Reserve Bank, totalled $6.5 billion for December 2014 (an increase of $306 million from December 2013).[xxxi] Credit card interest rates for the main banks are now generally sitting around 20%, while store credit cards generally hover around 23%.[xxxii] The loan to value ratio (LVR) lending restrictions may affect the ability of some home owners to roll credit card debt onto their mortgages.[29]

Changes to the civil debt enforcement system

79 Changes to the civil debt enforcement system in April 2014 appear to have made attachment orders an attractive option for creditors to recover outstanding debts following a judgment in their favour.[30] The numbers of attachment orders have already increased from approximately 200 per month prior to April 2014 to approximately 1,000 per month in early 2015.

80 The Ministry of Justice is currently introducing controls, including the forwarding of cases to Judges, to ensure that the system is being used appropriately by lenders.

Personal insolvencies continue to decrease

81 Personal insolvencies, including no asset procedures and bankruptcies, continue to trend downward from their 2009/10 peak, and totalled 3,418 for the 2013/14 year.[xxxiii]

Changes to consumer credit law

82 New Zealand consumer credit law has changed, with most changes taking effect from 6 June 2015. Key changes include:

82.1 lender responsibility principles, supported by guidance in a responsible lending code;

82.2 new rules about the repossession of consumer goods; and

82.3 amendments to some of the rules concerning disclosure.

83 At this early stage it is uncertain how these changes are going to influence trader compliance, however, we anticipate an increase in consumer credit-related complaint numbers.

29. This could prevent consumers from trying to access lower interest rates to pay off their credit cards.

30. An attachment order is a court order requiring an employer to make deductions from the debtor's income and pay these deductions to the creditor. Changes to the CCCFA around repossession have brought clarity to a debtor's liability when creditors have sold repossessed items, effectively freezing the balance. However, creditors may seek judgments in excess of that balance, which may risk breaching section 83ZM of the CCCFA.

The influence of technology on consumers

Key points

- Consumers are increasingly reliant on internet-based intermediaries.
- The growth of online subscription services may expose consumers to unfair contract terms.
- Social media is increasingly being used for trade purposes such as online sales, marketing, and customer reviews.
- Increased mobile usage potentially exposes more consumers to bill shock or contract disputes.
- Traders are using personalised advertising and pricing to attract consumer spending.

84 Society has an increasing reliance on technology to research, compare and access goods and services. Technological changes have the ability to impact a significant number of consumers, or disrupt markets, in a short time-frame.

Intermediaries

85 A range of tools and services has emerged to assist consumers to make informed purchasing decisions. Examples include search engine results, price comparison websites, reviews and feedback, 'Likes', and mobile apps. UK research indicates that such sources of information play an important role in consumer decision making.[xxxiv] When those tools or intermediaries are 'gamed' or 'flawed', as in the case of EnergyWatch in Australia, the consumer can be influenced to make an ill-informed decision.[31]

86 Internet-based intermediary platforms, such as Uber and Airbnb, continue to disrupt pre-existing markets, providing greater real-time choice for consumers, but providing challenges to incumbents, and regulators in highly regulated markets. While it is possible for disruptive intermediaries to bring significant benefits to consumers, it is also possible for them to achieve market dominance, potentially limiting future consumer choice.[32]

Digital subscription contracts

87 A recent development in New Zealand is the growth of digital subscription contracts for accessing content online, particularly television, movies and music. In other jurisdictions it has been noted that contracts for subscription services can contain unfair clauses, or terms and conditions, which consumers are often unaware of. For example, in France, Netflix is being sued for contracts that allegedly contain "malicious illegal clauses" such as the ability for the supplier to change the agreement without notice, and providing contracts in English only.[xxxv]

31. In 2012, the ACCC prosecuted EnergyWatch, a comparator website, for falsely claiming its service compared all the local power providers' prices with the consumer's. In reality, EnergyWatch only compared the prices of those energy providers with which it had commercial agreements.
32. 'Disruptive intermediary' is a widely used term that describes the way intermediaries, particularly digital ones, disrupt the established ways of creating value within or across markets, social interactions, and more generally society's understanding and thinking.

Mobile usage growth

88 Online growth has been significantly aided by mobile devices, and there are now 4.8 million mobile devices connected to New Zealand networks. Seventy-four percent of New Zealanders use smartphones to research products online, and 33% of those users follow through to purchase via their mobile device.[xxxvi]

89 UK research identifies smartphone ownership is highest amongst 18 to 24 year olds, and predicts a surge in ownership by those over 55.[xxxvii] This latter age group is generally less tech-savvy than 18 to 24s. This has the potential to result in bill shock from excess data usage charges or increased complaints due to contract misunderstandings or misrepresentations from telecommunication providers.[33] For example, most mobile devices are set up to connect to the internet from the outset, and this results in devices drawing data from power-on.

Personalised pricing

90 Companies have tracked consumers' online behaviour and buying habits for some time, and use this information to personalise product choices offered for purchase. Sometimes this personalisation has been linked to specific devices or browsers (eg, using an iPhone to book flights on Travelocity has resulted in a US$15 discount).[xxxviii]

91 Personalised advertising and pricing also occur in New Zealand, with personalised rewards, based on customers' individual spend having been observed. In one instance 370,000 consumers were offered reward vouchers with those who spent more on average being required to make higher payments to be eligible for the same reward as someone who spent less on average (eg, $230 v $195 for a $30 voucher).[xxxix]

Social media

92 Recent statistics show that 89% of New Zealanders are online, 55% use Facebook, and there are 370,000 Twitter users.[xl] OECD research notes that today's consumers tend to regard reviews and ratings on social media as more transparent and trustworthy than traditional advertising.[xli]

93 Social media has also provided the opportunity for dissatisfied customers to complain publicly, rather than engaging with regulators. This can have dramatic results for the consumer, sometimes enabling them to achieve a different or better self-help remedy than a regulator could have achieved using the tools available to them.[xlii]

94 Social media is an increasingly important marketing tool for businesses, with employee advocacy, brand advocacy, social storytelling, and interactive engagement being the latest methods used internationally to entice consumers to buy goods.[34] [xliii]

95 While social storytelling and interactive engagement are already being used in New Zealand, the most recent development has been the increased adoption of selling goods on social media sites like Facebook. Complaints to the Commission about sales made on Facebook rose 38% from 2013, but are still less than 1% of total complaints.[35]

---

33. The Australian Telecommunications Industry Ombudsman reported in their 2013/14 annual report that complaints about excess data charges were 27% higher than the previous year.

34. Employee advocacy is the use of employees to advocate for their employer through private social media pages; brand advocacy involves a sustainable word of mouth campaign via social platforms; social story telling uses shared values and a common goal to drive purchasing; and, interactive engagement uses games etc to engage consumers.

35. Complaints rose from 89 in 2013 to 123 in 2014.

Vulnerable consumers

Key points

- There are pockets of deprivation across the country, not just in well-identified suburbs.
- The housing to income ratio in certain locations increases vulnerability.
- There is a culture of debt acceptance, particularly in South Auckland.
- Mobile traders are prevalent in vulnerable communities.

96 A vulnerable consumer is often considered to be a person whose ability to transact, and/or acquire goods and services, effectively is impeded by factors like low income, limited English comprehension, some form of disability, serious or chronic illness, poor reading or numeracy skills, homelessness, or being very young, or very old.[xliv xlv] Often vulnerable consumers are less able or less likely to assert their rights and seek individual redress.[36]

97 Some traders specifically market products to vulnerable consumers, or operate predominantly in low socio-economic areas. In other cases vulnerable consumers may be affected by conduct that is widespread but which impacts them disproportionately more due to their vulnerability. For this reason conduct which impacts vulnerable consumers is a Commission priority.

98 2013 Census data shows pockets of deprivation occur across New Zealand.[37] Many of the deprived areas are in the North Island and range from the traditionally identified suburbs in big cities, to include suburbs in regional centres, and entire rural towns.[xlvi 38]

Socio-economic factors contributing to consumer vulnerability

Anecdotal commentary on vulnerable consumers

99 At our Mangere workshop with South Auckland based community groups, a number of observations were reported by participants, based on their experience working in the community.[39] While they cannot be evidenced by Commission complaint statistics, they provide context for some of the complaints the Commission has received.

99.1 It was suggested that there is a general acceptance of debt. Using payday lenders or buying from mobile traders is seen as normal. Some people are borrowing to buy necessities, and some are purchasing goods on credit contracts to sell for cash.

99.2 It was further suggested that Pasifika culture influences the type of debt accrued. For example, large Pasifika funerals costing tens of thousands of dollars, remittances to the Islands to support family, religious tithing, and being sold goods through churches.

99.3 Participants believe vulnerable people are specifically targeted for borrowing. Key contributors

---

36. While the Commission has not defined the term ‘vulnerable consumer’ we have taken note of other agencies’ definitions, such as the Federal Trade Commission and Consumer Affairs Victoria.

37. The New Zealand Treasury uses the following definition of deprivation: “a state of observable and demonstrable disadvantage relative to the local community or the wider society or nations to which an individual, family, or group belongs”.

38. There is a relationship between deprivation and where our population lives. The bulk of the population lives in the North Island and that is where most of the deprived communities are located.

39. The Mangere workshop enabled us to draw from the experiences of consumer community-based advocates, and to provide updates on Commission work, particularly in the consumer credit space.

to this vulnerability are:

- limited knowledge of their rights;
- lack of access to, or understanding of, key documentation including disclosure being in English; and
- inability to access loans from mainstream lenders (particularly new immigrants).

99.4 It was also noted that pressure-selling techniques, such as calling at dinner time, are often used, and that vulnerable people are often charged higher fees and interest rates than the less vulnerable.

Households

100 Crowded living conditions and high housing costs can significantly affect vulnerable consumers' quality of life. The 2013 Census of Population and Dwellings recorded that there were just over 1.5 million households in New Zealand, with over half living in the northern half of the North Island.[xlvii]

101 Levels of crowding remain high in Auckland. In 2013, almost half of crowded households in New Zealand were in Auckland. Over 200,000 people, including 45% of Pasifika in Auckland, were living in a crowded household. Three-quarters of those living in crowded conditions were in South Auckland.[xlviii]

102 There are approximately 30,000 households consisting of three generations in the Auckland region.[xlix] [l]

103 The housing in Auckland survey, based on 2013 Census data, identified that 6% of homes in Auckland never use heating fuels. This is twice the national rate of 3%. The unheated homes were most prevalent in Waitemata and South Auckland.[li]

The cost of housing

104 New Zealand's eight major housing markets were classified as either severely unaffordable or seriously unaffordable in the 10th annual Demographia International Housing Affordability Survey (2014).[40] [lii] This finding is supported by the house price to income multiple, an internationally recognised measure of housing affordability, which identifies the average house in those markets now costs between approximately four to eight times the average annual household income in those areas.[liii]

105 Housing costs are increasing as a proportion of household expenses. The Household Economic Survey (Income) identifies that, nationally, total housing costs account for 16% of total household income and are increasing faster than household income.[41] [liv]

106 It has been reported that rents in South Auckland can constitute as much as 50% of household expenditure.[42] This is supported by the house price to income multiple, which identifies that the average house in Manukau City costs 7.31 times the average Manukau household income of $79,507.[43] [44] [lv]

107 The high cost of housing in Auckland is driving the 'gentrification' of traditionally less desirable suburbs.[lvi] This is also likely to be occurring in the other major housing markets.[45]

---

40. Those markets are Auckland, Christchurch, Tauranga-Western Bay of Plenty, Wellington, Dunedin, Palmerston North, Napier-Hastings, and Hamilton-Waikato.
41. Of those households that owned or partly owned their houses, 14% spent 30% or more of their total household income on housing costs. This rose to 34% for those who rent their dwelling. This has increased from 15% in the 2012/13 survey.
42. Compared to the median income in Auckland of $29,600, the median income in South Auckland is $19,700.
43. The house price to income multiple is a simplified measure of housing affordability. It is defined as the ratio between the median house price and the median annual household income, otherwise known as the median multiple.
44. By comparison, Invercargill houses cost 2.69 times the average household income of $72,304.
45. A similar phenomenon occurred in Ponsonby in the 1970s, displacing the then largely Pasifika and Māori community. At the time, Ponsonby consisted of rundown villas and workers' cottages, many of which were rented by Māori, or Pasifika migrants in the 1950s and 1960s. Ponsonby is now known as a high-income suburb.

Family income

108 In 2013, the median family income from all sources was $72,200. However, it was noted that one-parent families had a median income of $33,100, and one-quarter of all families receive income from some form of government transfer.

109 The areas with the lowest family incomes were:

- Great Barrier ($40,700)
- Kawerau District ($41,500)
- Opotiki District ($48,400).[46]

Personal income

110 The 2013 Census median personal income data shows disadvantage when considered by ethnicity:

- $37,100 for other (includes New Zealander)
- $30,900 for European
- $22,500 for Māori
- $20,100 for Asian
- $19,800 for Middle Eastern/Latin American
- $19,700 for Pasifika.[47]

111 The three areas with the most serious personal income disadvantage are generally aligned to the pockets of household income disadvantage:

- Kawerau District ($18,700)
- Great Barrier ($19,100)
- Mangere-Otahuhu ($19,700).[lvii]

112 In 2013, 29% of those aged 15 years or over received an annual personal income of $15,000 or less. Of the 16 regional council areas in New Zealand, three regions accounted for over 90% of this group: Auckland (31%), Northland (31%) and Gisborne (31%).[lviii]

46. By comparison, Mangere-Otahuhu and Otara-Papatoetoe were $50,700 and $52,500 respectively.

47. Our population consists approximately of European 70%, Māori 14%, Asian 11%, and Pasifika 7%.

The aged

113 New Zealand Superannuation or the Veteran's Pension is the third most common form of income.[lix 48 49]

114 Currently, persons aged 65 and over account for 13% of the population. This is projected to increase to 21% in 20 years' time, with the percentage predicted to be greater in those areas favoured for retirement.[50 lx lxi]

115 A 2014 Ministry of Social Development report notes that 40% of retirees are almost solely dependent on national superannuation, with another 20% deriving approximately 80% of their income from superannuation and other government transfers (this equates to approximately an additional $100 or less per week).[lxii]

Mobile traders predominantly sell to vulnerable consumers

116 A recent Commission project into mobile traders, often referred to as truck shops, identified 32 traders of this type, with only one trader found to be operating within the law.

117 Mobile traders operate throughout New Zealand, although the majority are based solely in the North Island, with a particular concentration in Auckland. They were noted as most prevalent in communities with high numbers of consumers who have limited financial literacy and who are unable or choose not to obtain credit from any other source.

118 Mobile traders do not have fixed retail premises in the traditional sense, operating mobile shops or selling door-to-door from catalogues and brochures. They sell a range of different products and are predominantly found in lower socio-economic communities. Their goods are often of lower quality and/or higher prices than comparable products available at mainstream retail outlets. They sell predominantly or exclusively on credit, layby or other deferred payment terms.[51]

119 The Commission report noted that many of the sales agreements and contracts were found not to comply to some extent with the disclosure requirements of the FTA and CCCFA, and it can be difficult and costly for consumers to cancel some sales agreements.

120 The readily available finance is seen by consumer advocates as creating social and economic concerns for vulnerable families and they are often reported by media as concentrated in vulnerable communities.[lxiii]

121 A comprehensive overview of the industry can be obtained from the Commission website at http://www.comcom.govt.nz/the-commission/consumer-reports/mobile-trader-201415-project/

48. 58% received income from salary or wages, 21% from interest/dividends/investments, 17% from Superannuation/Veteran's Pension, 15% self-employed, and 16% from government benefits or other pensions.

49. This is more than the number of self-employed (15%).

50. For example, currently one adult in three in Thames-Coromandel receives some income from New Zealand Superannuation or the Veteran's Pension. In Queenstown Lakes, however, just one person in ten does.

51. For example, in August 2014 a mobile trader advertised an Apple iPhone 4 at $40 per week for 40 weeks (total $1600). Prices from standard retailers, at the time, ranged from $329-$499.

International partners' priorities

Key point

- The issues being experienced by New Zealand consumers are currently very similar to those being experienced in Australia.

Scams and frauds

122 The ACCC received almost 92,000 contacts about scams in 2013, and reported financial losses of approximately AU$89 million. The ACCC noted that dating and romance scams caused the most detriment with approximately AU$25 million in reported loses in 2013.[lxiv]

The ACCC focus areas for 2015

123 The ACCC focus areas for 2015 include:

123.1 emerging consumer issues in the online marketplace to ensure the rights and obligations that exist in the bricks and mortar world are not ignored online (eg, redress and delivery timeframes);

123.2 improving product safety, particularly by focusing on good practice in the manufacture, importing, and quality assurance of consumer products;

123.3 issues affecting indigenous consumers, older consumers, and recent migrant consumers;

123.4 relationship scams and carbon tax cost savings; and

123.5 a new programme of reviewing selected industry sectors. For 2015 it will include debt collection and private health insurance.

International priorities

The FTC is looking to address:

- substantiation (eg, medical claims)
- misrepresentation (eg, throttling data plans)
- premiumisation (eg, 'green' claims)
- consumer advocacy (eg, vulnerable and disadvantaged)

The Competition and Markets Authority (CMA) is looking to address:

- car hire (eg, drip pricing, unfair contracts, etc.)
- online games (eg, monitoring compliance)
- pipeline work which includes:
  - commercial blogging
  - sharing economy
  - crypto currencies

Section 2 – Commerce Act complaints

Key points

- The growth in complaints in 2014 can be attributed to three matters.
- The majority of CA complaints are single complaints about individual traders.
- There has been an increase in domestic leniency requests.
- Industry associations feature frequently in our cartel investigations.

124 This section focuses on our analysis of CA data (complaints, merger clearances and leniency requests) to identify matters that may impact consumers. It also compares our findings to international partners to identify any commonality.

125 Complaints are a subset of all contacts with the Commission. Complaints are identified as potential breaches of the law but do not necessarily mean that the law has been breached. However, a complaint can indicate something of potential concern to consumers.[52]

Commerce Act by the numbers[53]

Table 2: The number of CA complaints, 2009 to 2014.

	2009	2010	2011	2012	2013	2014
Complaints	128	90	71	123	260	503

126 CA complaints for 2014 remained almost static when compared to 2013 levels, once 224 complaints related to three matters (which didn't breach our legislation) are removed, leaving 279 complaints.[54] The three matters were:

126.1 the perceived potential for market dominance following the proposed merger of IAG and Lumley Insurance, and public concern over IAG and other insurance companies potentially lessening competition by using their market power in collision repair services generated 118 complaints;[55]

126.2 Progressive Enterprises allegedly pressuring suppliers, and the publicity generated by former Member of Parliament Shane Jones, resulted in 88 complaints; and

126.3 an organised campaign against Dominion Breweries trademarking the Radler style of beer generated 17 complaints.

127 The fourth most complained about trader was Foodstuffs with seven complaints.

52. Also see, 'Limitations on complaints information' at paragraphs 5 to 6.

53. The purpose of the CA is to promote competition in markets for the long-term benefit of consumers within New Zealand.

54. The 2013 data did not contain any comparable large-scale single matters.

55. The complaints regarding collision repair services related to concerns that IAG and other insurance companies were using their market power to reduce hourly rates and margins on replacement parts.

Which behaviours are the most complained about?

128 Complaints covered a range of sections within Part 2 of the Act. With the majority of complaints being single complaints about individual traders.[56]

Electricity distribution is the most complained about industry

129 Once the three large matters discussed in paragraph 126 are removed electricity distribution is the only sector or industry of note, with 11 complaints. While this number is small it is significant in the context of single issue complaints about multiple traders.

130 Electricity distribution has consistently drawn complaints across 2013 and 2014 with 11 complaints received in both years. Many complaint narratives are concerned with possible anti-competitive behaviour exhibited by lines companies operating in regional monopolies, keeping closed relationships with subcontractors, charging customers excessive prices, and pressuring customers to pay for necessary infrastructure. Aspects of these complaints are being further assessed by the Competition Branch.[57]

Leniency requests[58]

Table 3: Collated leniency requests by year, identifying the reach of claimed cartel conduct, taken from the Leniency Immunity Register (duplicate cases removed).

Year	2010	2011	2012	2013	2014
Domestic	1	1	1	5	3
International	2	4	1	2	1
Total:	3	5	2	7	4

131 The number of leniency requests per annum over the last four years has remained largely constant, although the proportion of domestic leniency requests may be starting to trend upward.[59]

132 Investigations continue into some leniency applications made in 2013. 2013 also saw domestic applications for leniency relating to construction products. Carter Holt Harvey was fined $1,850,000 with one individual fined $5,000.

133 Internationally, the broader construction industry remains an industry of widespread concern for cartel conduct.

56. These include contracts, agreements and understandings which substantially lessen competition (section 27), taking advantage of market power (section 36), excluding competitors (section 29), and acquisitions which may have led to substantially lessening competition (section 47).

57. The legislation regulating electricity distribution is relatively complex; as such, matters which customers perceive as anti-competitive are often within the law and/or outside the Commission's mandate.

58. Further detail on leniency can be found on the Commerce Commission website at http://www.comcom.govt.nz/the-commission/commission-policies/cartel-leniency-policy/

59. A domestic cartel operates solely in New Zealand, whereas an international cartel is international.

The role of industry associations

134 Industry associations continue to feature in investigations into price fixing agreements and/or agreements that substantially lessen competition, particularly where an external shock or cost has affected members.

135 Our investigations where industry associations have been involved have included many parties due to the large numbers of industry members involved.

136 An increased focus on industry association-related investigations/proceedings has also recently been signalled by the FTC.

What anti-competitive conduct is being investigated overseas?

137 The work of the Commission to identify and prosecute anti-competitive conduct is similar to that of our key partner agencies and the European Union.[60] The absence of criminal conduct provisions in New Zealand law remains a distinct point of difference with our key partner agencies.

138 An examination of the investigation and prosecution of anti-competitive conduct in our key partner agencies and the European Union since 1 January 2013 observed the following points of general interest:

138.1 The serious levels of cartel conduct discovered amongst interest rate derivative traders and auto-parts manufacturers have dominated European and North American competition proceedings in the past 2 years.

138.2 Concerns about (and prosecutions involving) the supply of construction materials and services remain current in Europe, with criminal investigations in the UK and extensive bid-rigging on state contracts recently prosecuted in Denmark, among others.

138.3 The number of private damage claims against cartelists and the size of these claims are increasing. For example, in December 2014 Deutsche Bahn (the German railway company) filed record-setting claims in both the United States and Europe against air freight cartel participants (€1.2 billion).[lxv]

ACCC priority areas for 2015

- Cartel conduct, anti-competitive agreements and practices, and misuse of market power remain enduring priorities.
- Cartel activity in government procurement.
- Competition and consumer issues in highly concentrated sectors.
- Competition and consumer issues in the medical and health sector.

60. Key partners include the FTC, CMA, ACCC and the Canadian Competition Bureau.

Section 3 – Consumer complaints

Key points

- Consumer law reform publicity is the likely cause of increased complaint numbers in 2014, with complaints now returning to previous levels.
- There has been a decrease in extended warranty-related complaints.
- Online trading generates 33% of all FTA complaints. This is twice the level of complaints generated by physical stores.
- Twenty five percent of complaints relate to 24 traders.
- Telecommunication providers and domestic appliance retailers continue to generate the most complaints.
- Christchurch rebuild complaints have significantly reduced.

139 This section sets out the findings from our analysis of FTA complaints and considers information from CNZ.

140 Complaints are a subset of all contacts with the Commission. Complaints are identified as potential breaches of the law but do not necessarily mean that the law has been breached. However, a complaint can indicate something of potential concern to consumers.[61]

Fair Trading Act by the numbers

Table 4: The number of FTA complaints, 2009 to 2014.

	2009	2010	2011	2012	2013	2014
Complaints	5,822	4,863	4,353	4,360	3,425	4,377

141 From 2009 to 2013, enquiries to the Commission decreased by almost 50% overall. Following publicity about changes to the FTA in mid-2014, there was a measurable increase in complaints to the Commission. Complaint numbers are now trending towards previous levels.

142 Internet page visits to MBIE's CGA fact sheet and the Commission's FTA fact sheet similarly increased from June 2014. However, page visits to the fact sheets have decreased in line with the decrease in publicity, albeit at a slower rate than complaints.

Decreasing complaint numbers may limit our ability to identify issues or reliably estimate the extent of potential impact on consumers.

For example, it is not uncommon to receive only a single complaint, or very few complaints, about an issue that has the potential to affect many consumers across the country.

61. See 'Limitations on complaints information' at paragraphs 5 to 6.

What are consumers most concerned about?

143 Consumers complained the most about being misled through the following mediums:

- Internet/website 33% (1,477)
- Contract (terms and conditions)/invoice 28% (1,222)
- In-store 14% (604).

144 The percentages for these three mediums have remained almost static when compared to 2013 figures.

Internet/website/online 33% (1,477)

145 Online trading now generates about a third of FTA complaints to the Commission.[62] This is twice the level of complaints generated by 'in-store' (1,477 versus 604 in 2014).

146 Analysing complaints about online activity in 2014 shows:

- 26% related to goods (eg, quality of product or advertised specification)
- 24% were for price (eg, drip pricing or price increases before discounts)
- 20% related to the provision of online services
- 9% were for no intention to supply (eg, non-delivery or delivery timeframe).

147 Domestic appliances, specifically small hand-held technical devices, such as tablets and telephones, generated the most complaints about online trading to the Commission.[63]

148 Reading the narratives of 450 of the online-related complaints in 2014 identified that almost 81% of sampled complaints were linked to domestic traders, 13% were linked to international traders, and the remaining 6% could not be determined.[64]

149 The low percentage of complaints about off-shore traders was unexpected as purchasing from off-shore websites potentially increases the risk to consumers, especially if the goods are faulty or not received.[65] [66]

150 Recent consumer law reforms, such as the requirement to disclose online trader status, are already showing in complaints about online trading.

Contract (terms and conditions)/invoice 28% (1,222)

151 Complaints concerning contracts and invoices have generally been specific to individual traders rather than indicative of wider industry behaviour.

152 The most significant contributor to this category of complaint was the Auckland Academy of Learning, which featured on television news.

In-store 14% (604)

153 Complaints generated in-store point to trader-specific conduct rather than general changes in, or patterns of, conduct across industries. Key contributors were Dead Sea Skincare and Progressive Enterprises, both of whom were subject to media attention about their business practices during the year. This may have generated additional complaints.

---

62. For the 2013 calendar year, online complaints accounted for 32% of all FTA complaints (30% in 2012).
63. This was identified through sampling approximately 30% of the 1,477 online-related complaints narratives.
64. Without the narrative review we would be unable to show this breakdown, as our reporting system is not structured to capture the location of traders consistently.
65. This is because it is often very difficult for a consumer to contact the trader or seek remedy under the CGA if the trader is based overseas.
66. Foreign traders continue to register New Zealand domain names to attract New Zealand consumers. The Domain Name Commissioner advises that 18% of .nz domains (almost 108,000) have a non-New Zealand address listed in the registrant's contact field ID.

Which industries are the most complained about?

154 The four most complained about industries for FTA complaints were:

- telecommunications service providers and carriers 381 (9%)
- domestic appliance/electronics/phones 314 (7%)
- motor vehicle retail and sales 243 (6%)
- trading bank 164 (4%)

155 We make the observation that telecommunication providers and domestic appliance retailers generally have a national presence with a high volume of sales. As a result it would be reasonable to expect a higher number of complaints. However, participants in these markets generate different levels of complaints, suggesting that trader practice, for some, may be the cause of the imbalance.

Telecommunications

156 Complaints about telecommunication service providers have increased by 62% from 2013. Complaints about Spark and Vodafone introducing $1.50 fees for paper invoices and manual processing accounted for 46 of those complaints. Complaints about the copper unbundling pass-through costs generated another 19 complaints.[67] While removing these complaints drops telecommunications to a level just above domestic appliances in terms of complaint numbers, complaints against telecommunication service providers have risen from 2013 levels.

CNZ provided a sample of enquiries received in the six months to 31 December 2014. Of the 429 unique enquiries provided, 80% related to the CGA, another 10% related to the FTA, and the remainder were general complaints.

The most complained about products under the CGA were (by enquiries):

- automobiles (29)
- mobile phones (29)
- computers (26)

The top three traders with CGA enquiries were:

- Harvey Norman (29)
- Noel Leeming (19)
- Spark (8)

Behaviours seen in CGA enquiries include trader and consumer confusion over CGA protections beyond a warranty period, and consumers having difficulty claiming cash refunds on faulty products.

FTA enquiries included price and service misrepresentations by various electricity retailers (six enquiries) and the charging of 'unfair' penalties by parking services (four enquiries).

157 Quality of service, misrepresentations on availability of service, and general pricing complaints were the main themes.

158 A recent CNZ survey of 10,000 members identified that member satisfaction with telecommunication companies had decreased further from 2013, and now sits at 68% with the services provided.[lxvi]

67. These complaints were assessed and found not to breach the FTA

Domestic appliances

159 Complaints about domestic appliance retail remained largely static from 2013 (332 down to 314).

160 There are general themes across the domestic appliance retail industry, as well as trader-specific issues. For example, one trader now generates a number of complaints through their online trading.

161 General themes include:

161.1 increasing instances of retailers pushing consumers to manufacturers for redress, rather than addressing matters at the point of sale;[68]

161.2 the continuing practice of charging sometimes non-refundable deposits on goods returned to the retailer for warranty repairs;[69]

161.3 a decrease in complaints about extended warranties;[70] and

161.4 a small number of complaints about the upsizing of sales through payment protection insurance.

Motor vehicle retail and sales

162 Complaints about motor vehicle retail and sales climbed from 170 in 2013 to 242 in 2014 (42%). There has been a general increase in complaints from mid-June 2014, following the introduction of the consumer law reform.

163 Complaints about individual traders accounted for 129 of the complaints.

164 Consumer Information Notices (CINs) were mentioned in 105 complaints.[71]

Trading banks

165 Trading banks were the subject of 160 complaints in 2014. Of those, 141 related to the interest rate swaps case and were generated by a Commission request for further complaints from affected parties.[72]

Which traders do consumers complain about most?

166 In 2014, 1,860 traders were the subject of a FTA related complaint to the Commission. Of those, 1,076 had not previously come to our attention (2009 to 2013).

167 25% (1,126) of FTA complaints received by the Commission in 2014 were generated by 24 traders.[73] A similar pattern was also noted in 2013 in Commission and CNZ data. However, the traders identified in the data differed between the organisations.[74] [75]

---

68. This is particularly prevalent in, but not limited to, domestic appliance retail.
69. It appears that this tactic has been introduced to dissuade consumers from making warranty claims on cheaper electronics in an industry that survives on a low profit margin.
70. At this stage it is too early to draw a conclusion about the cause of this decrease. However, we will continue to monitor these complaints.
71. A CIN provides information about a used motor vehicle's history and must be attached to any commercially sold vehicle.
72. The Commission settled with the three trading banks concerned for a total of $25.17 million.
73. Detailed discussion and observation on the 24 most complained about traders can be found in Section 6 – Informing our Trader Compliance Programme.
74. See Section 6 for a list of the most complained about traders under the FTA.
75. Analysing these complaints, in conjunction with an awareness of other contributors' complaints data, suggests that different organisations are attracting complaints from different demographic groups; for example, CNZ, a subscription membership organisation, appears to attract wealthier consumers who shop at different stores. Other organisations attract more vulnerable consumers.

168 Within the top 24 most complained about traders there are five domestic appliance retailers, five telecommunication companies, two group buying sites, two banks, both supermarket chains, and two companies identified by the television news show 'Campbell Live'.

169 It was noted that complaint themes were often specific to a practice within an industry, with the exception of the widespread movement by retailers toward pushing consumers to manufacturers for warranty claims. For example, the misrepresentation of CGA rights is a strong component of complaints about small appliance retail, whereas pricing concerns are the predominant theme in complaints about supermarkets.

Branch priority areas within complaints

170 The Christchurch rebuild, by virtue of being a Government priority, and product safety, due to the potential for product failure to cause injury or death, were both identified as Commission priorities for the 2014/15 business year.

Rebuild complaints

171 Christchurch rebuild-related complaints across all Acts the Commission enforces fell by 41% from 2013 levels (from 58 to 34).

172 Contracts/invoices generated 50% of rebuild-related complaints.

173 Despite all 34 complaints being about individual traders, there is a small cluster of complaints about insurance companies requiring continuing insurance on properties already identified as a total loss.

Product safety complaints

174 Product safety complaints to the Commission have decreased slightly from 2013 levels (from 44 to 41). Children's cots and baby walkers accounted for nearly 60% of complaints.

175 Trade Me was noted as the intermediary in many sales complaints. This is because their platform provides opportunity for the sale of non-compliant goods, as members are potentially unaware of their regulatory obligations. Trade Me continues working to prevent this by providing prompts to sellers looking to list goods covered by product safety requirements, and links to Commission fact sheets.

How much impact do scams and fraudulent conduct have on consumers?

176 The Commission is mandated to address misleading conduct, false representations, and unfair practices by those in trade. In respect of scams or similar misleading conduct, this means regulating conduct by an entity conveying the impression of being in trade. For example, Malaysian travel scams using a business name would be assessed, while a romance scam between individuals would not.

177 Scams and fraud-related complaints increased in 2014 to 88, up from 50 the year before. However, it can be difficult to differentiate between a legitimate, but non-compliant, trader and someone deliberately engaging in fraudulent behaviour while purporting to be in trade.

178 Fifty complaints relating to NZ Business Funding Centre are included in this total.[76] My Deal Save (penny auction site) was the subject of 11 complaints, and Income Education Ltd (real estate investment) was the subject of four complaints.[77] The balance of complaints was about single traders, or individuals, purporting to be in trade, and traversed a wide range of scams or fraudulent conduct.

179 Proforma invoicing complaints have decreased to be almost non-existent compared to previous levels.

180 Financial 'mule' scams made up over half of scams reported by bank customers to the Banking Ombudsman in 2013/14 (41 total enquiries). Mule scams involve account holders receiving funds from a third party, and then transferring them elsewhere (often through a funds remittance agency). When a bank reverses the funds received by their customer, it can leave the customer with an unanticipated debt.

Operation EDIT

This was a multi-agency operation targeting several prolific proforma invoicers (invoicing for services never provided or requested).

Six people were prosecuted for offending dating back to 2008 and totalling $1.6 million.

Complaints about this activity ceased upon prosecution of these people.

How do our complaints compare with Australia?

181 The 2014 New Zealand industry complaint patterns were very similar to those experienced in Australia for the same period, with the exception that Australia received a large volume of complaints about solar panel installers and new car dealerships.

76. As at 30 June 2015 the Commission had received more than 100 complaints about this 'trader'. The Commission media release can be accessed at http://www.comcom.govt.nz/fair-trading/fair-trading-media-releases/detail/2015/beware-of-website-offering-government-grants-and-funding-to-businesses

77. The Commission issued a media statement concerning My Deal Save in February 2014. Full details can be accessed at http://www.comcom.govt.nz/fair-trading/fair-trading-media-releases/detail/2014/commission-issues-penny-auction-website-warning-dealsave

Section 4 – Consumer credit complaints

Key points

- Finance companies are the most complained about lenders.
- Mobile traders are the second most complained about lenders.
- Motor vehicle credit contracts generate 30% of complaints.

182 This section focuses on our analysis of CCCFA complaints, and provides analysis of information received from NZFFBS.

183 Complaints are a subset of all contacts with the Commission. Complaints are identified as potential breaches of the law but do not necessarily mean that the law has been breached. However, a complaint can indicate something of potential concern to consumers.[78]

CCCFA complaints by the numbers

Table 5: The number of CCCFA complaints, 2009 to 2014.

	2009	2010	2011	2012	2013	2014
Complaints	330	255	266	151	191	146

184 CCCFA related complaints have continued their decrease from 2009, and are now less than half of what they were six years ago.[79]

185 The most complained about lenders were:

- finance companies, with 50 complaints (34%)
- mobile traders and direct sales, with 34 complaints (23%)
- motor vehicle finance providers, with 19 complaints (13%)[80]
- payday lenders, with 5 complaints (3%).

186 Trading banks accounted for just 2% of complaints, despite representing the bulk of the lending market.

187 Personal loans were the most complained about financial product with 32 complaints.

188 Motor vehicle loans were the subject of 30% of complaints.[81]

78. See, 'Limitations on complaints information' at paragraphs 5 to 6

79. We have not analysed CCCFA complaints data to identify the cause of the decrease in enquiry and complaint numbers. However, potential causes could include increased uptake of budgeting services or financial resolution service providers' services, increased use of social media, or lack of awareness to complain to the Commission.

80. These are finance companies that specialise in lending for motor vehicle purchases.

81. This includes loans from motor vehicle finance specialists, other loan providers, and personal loans where the narrative identifies that the loan was used for purchasing a motor vehicle.

Finance companies are the most complained about lenders

189 Complaints about finance companies have decreased by 20 complaints from 70 in 2013. Commission action against Budget Loans accounts for this reduction.

190 With 30% of all CCCFA complaints, finance companies are the most complained about providers. Fees and disclosure were the main themes.

191 Over 50% of complaints about finance companies were single complaints about lenders. The four most complained about lenders were:

- Instant Finance (5)
- Budget Loans (4)
- Finance Now (4)
- GE Finance (4).

192 Motor vehicle loans from finance companies generated 28 of those 50 complaints (56%).[82]

Mobile traders generated 23% of complaints[83]

193 Complaints against mobile traders have remained largely static (31 in 2013 and 34 in 2014).[84]

194 The four most complained about mobile traders were:

- Ace Marketing (9)
- U Buy (5)
- Home Direct (4)
- Flexibuy (3).

Financial Services Complaints Ltd complaint statistics for the 2013/14 financial year noted personal loans to consumers for motor vehicle purchases were the most complained about product.

195 Disclosure and cancellation of contracts were the key themes in complaints related to mobile traders.

196 Other concerns about mobile traders include:

- non-delivery of goods after the agreed number of payments have been made
- inaccurate description of the goods or quality of the product
- different product supplied from what was agreed
- sales agreements and credit contracts that fail to detail the goods purchased, the exact payment terms, total amount owed, and the end date
- continued deductions after goods have been paid for to build credit for future purchases.

82. Only two companies had a relationship between FTA and CCCFA complaints about motor vehicles.

83. Mobile traders sell goods on credit. The areas targeted by mobile traders are generally low socio-economic areas. The customers are often vulnerable, may have a poor credit history, and are unable to obtain credit from other sources. These consumers may be financially illiterate, at home without transport, or perhaps desperate for the goods on offer.

84. Complaints about mobile traders often contain FTA and CCCFA components.

Payday lenders[85]

197 Complaints against payday lenders have decreased from 4% in 2013 to 3% (five complaints) in 2014. Fees and disclosure were the predominant themes.

198 The most complained about lender was Teleloans, with two complaints.

Banking Ombudsman complaint statistics for the 2013/14 financial year noted a decline in complaints about unsecured lending but saw an increase in complaints involving credit card lending and guarantees.

Non-disclosure is the most complained about behaviour

199 With 43 complaints, initial disclosure was the most complained about behaviour; however, continuing disclosure and variation disclosure added another 13 complaints. The four most complained about lenders were:

- Ace Marketing (7)
- Instant Finance (3)
- Finance Now (3)
- Auckland Academy of Learning (3).

200 Cancellation (12) and oppressive contracts (10) were the next most complained about concerns.

Patterns in New Zealand Federation of Family Budgeting Services (NZFFBS) client information

201 Analysing NZFFBS client information has shown some interesting patterns.[86] However, it is important to note that the NZFFBS information was never intended for this use as the debts analysed in this portion are the debts 'held' by consumers seeking advice from budget advisers. There is no visibility of the specific circumstances around each debt (eg, what has motivated the consumer to approach NZFFBS) or the circumstances under which the debt was acquired.

NZFFBS statistics for the 2013/14 financial year showed:

49,875	new clients
77%	were beneficiaries
46%	were Māori
12%	were Pasifika

202 Debt presented to NZFFBS for budgeting assistance doesn't necessarily evidence wrong doing by the consumer or the lender.[87]

203 The top 40 most recorded creditors account for 65% of instances of presented debt, and are owed 70% of the total value of presented debt.[88]

85. The very high, but legal, annualised interest rates charged by payday lenders provoke continual media and political attention, and these are often evidenced with tales of consumers from vulnerable communities who have fallen into a debt trap. It is not uncommon for payday lenders to charge annualised interest rates in excess of 500%; for example, a $15 charge on a $100 loan for 14 days equates to an annualised interest rate of 391%.

86. NZFFBS is New Zealand's largest budget advisory service, covering 164 sites nationwide, with approximately 960 voluntary and paid advisers.

87. The figures quoted here must be considered as approximate only due to coding inconsistencies across the NZFFBS network.

88. The top 40 most recorded creditors were a mix of banks, finance companies, debt collection agencies, store cards, government departments (such as Work and Income), and fines owed.

204 The most common types of debt presented to NZFFBS are:

- mortgages ($206 million)
- finance company loans / cards (not mortgages) ($99 million)
- government departments ($77 million)
- bank loans / credit cards (not mortgages) ($72 million)
- retail goods / store cards ($28 million).

Mortgages

205 Mortgages, at $206 million, account for 40% of presented debt. This large percentage is held by only 1,668 clients. This high value to client ratio is to be expected given the value of a mortgage. The low number of mortgages held by all NZFFBS clients reflects that 77% of clients are beneficiaries.

206 When considering the top 10 recorded mortgage providers, the average value of mortgages for one lender, NZ Home Loans, is noted as being substantially more than the average value of trading bank mortgages. This lender is also recorded more often than a number of trading banks of larger size.

Finance companies

207 Finance company loans and cards account for another 20% of presented debt. This is despite having a lower market share than trading banks. The most recorded finance company by instances, total value presented, and average amount owed is GE Finance.

208 The next most presented creditors are:

- Instant Finance
- Q Card Consumer Finance (Q Card)
- Motor Trade Finances (MTF).

209 The average value of debt owing to MTF is larger than the other finance providers and reflects that its loans are for vehicles.

Government departments

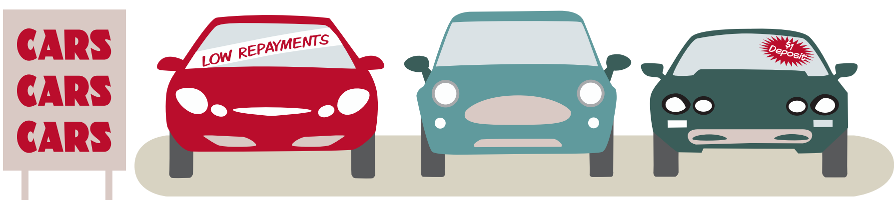
210 Government department debt comprises monies owed to entities such as Inland Revenue, Legal Aid, Work and Income, and Housing New Zealand Corporation.

Bank personal loans and credit cards

211 There were no readily discernible patterns for bank loans/credit cards in presented debt.

Retail goods/store credit

212 It was noted that a number of mobile traders had approximately 20% of their debt in arrears.



The most commonly appearing creditors[89]

213 Removing the trading banks, government departments, and debt collection agencies identifies the following creditors by frequency of mention:

- GE Finance (2,638 instances and owed almost $30 million)
- Home Direct (2,312 instances and owed $1.5 million)
- Spark (1,307 instances and owed $5.7 million)
- Q Card (1,278 instances and owed $4.3 million)
- DTR (1,163 instances and owed $2.6 million)
- Instant Finance (943 instances and owed $4.3 million).

The creditors owed the most[90]

214 Removing the main trading banks, government departments, and debt collection agencies identifies the following creditors by amount owed (rounded):

- GE Finance ($30 million)
- Club Finance ($19.5 million)
- NZ Home Loans ($10.5 million)
- Spark ($6 million)
- SBS Bank ($5 million).

What do these statistics suggest?

215 Very few of NZFFBS clients have mortgages as presented debt (1,668 instances), despite the high number of annual clients. Consequently, mortgages, despite their value, do not generally present as an issue.

216 Some retail and motor vehicle credit arrangements, particularly where lending is provided by third party lenders, appear to be problematic for NZFFBS clients.

217 The number of finance company loans is on a par with the number of mortgages and personal loans undertaken by the main trading banks. This is despite the finance companies having only a small percentage of the market. The average amount owed to finance companies is $1,000 more than that owed to trading banks for non-mortgage lending.

89. The debts presented by NZFFBS for budgeting assistance doesn't necessarily evidence wrong doing by the consumer or lender, see paragraphs 201-202.

90. The debts presented by NZFFBS for budgeting assistance doesn't necessarily evidence wrong doing by the consumer or lender, see paragraphs 201-202.

Section 5 – The current issues and emerging risks to consumers and markets

218 This section sets out the key issues and risks from our analysis in the previous sections. This section lists the current issues and emerging risks identified from both the consumer environment study and our analysis of complaints and other data. It also rates the level of potential impact on consumers from each issue and risk identified using the same information.

219 Drawing from our study of the consumer environment and our data analysis, we have identified and rated 93 current issues and emerging risks that might impact consumers.

220 Each issue and risk rating is the consensus of a panel of staff that assessed the frequency of occurrence, multiplied by the likely degree of detriment to consumers. In some instances the risk rating is based on limited evidence. This is particularly so for emerging risks, or where an activity occurs covertly.

221 Not all issues will justify Commission attention or intervention. The Commission will assess the issues and risks in the context of all of the information in this assessment and determine those that are a priority. Those issues not addressed through specific projects are often dealt with on a case-by-case basis as complaints are received and investigated.

Likelihood		Detriment		Harm
1. Rarely happens 2. Infrequently happens 3. Sometimes happens 4. Commonly happens 5. Entrenched behaviour	X	1. Minimal impact 2. Some impact 3. Moderate impact to consumers or businesses 4. Major impact to consumers, businesses, or markets 5. Severe impact to consumers, businesses, or markets	=	Score is determined by the matrix below.

Overall detriment

Likelihood of happening	*Minimal*	*Some*	*Moderate*	*Major*	*Severe*
Rare	Low	Low	Low	Medium	Medium
Infrequent	Low	Low	Medium	Medium	High
Sometimes	Low	Medium	Medium	High	High
Common	Medium	Medium	High	High	Very high
Entrenched	Medium	High	High	Very high	Very high

How we consider detriment

Minimal impact

- → Consumers or businesses are unlikely to have been affected.

Some impact

- → Consumers or businesses are likely to have incurred little:
  - physical harm
  - increased prices or adverse effects on non-price elements (eg, quality)
  - loss of property, or
  - impaired choice.
- → Vulnerable consumers have not been targeted.

Moderate impact

- → Limited numbers of consumers or businesses may have been directly adversely affected.
- → There is limited potential impact on indirectly-related consumers or businesses (eg, through decreased consumer confidence).
- → Competition in the relevant markets has not been affected.

Major impact

- → Consumers or businesses may have incurred:
  - physical harm or could incur physical harm
  - increased prices or adverse effects on non-price elements (eg, quality)
  - loss of property, or
  - impaired choice.
- → Vulnerable consumers have been targeted.
- → Many consumers or businesses have potentially been directly adversely affected.
- → Competition in relevant markets is likely to have been affected.

Severe impact

- → Death or severe injury has occured or could occur.
- → There is likely to be a significant impact on related consumers or businesses.
- → Competition in the relevant markets has potentially been significantly affected.
- → There is likely to be significant regional or national impact.

The issues of greatest potential impact to consumers

222 The Consumer Issues 2014 paper was the first to consider issues across the consumer environment. In this second iteration, the Consumer Issues 2015 paper, has revised wording of the issues for greater clarity. The issues that are considered likely to have the most potential impact (high and very high ratings) to consumers in 2015 are:

Lenders charging unreasonable fees

Some lending institutions charge unreasonable fees, creating financial strain for borrowers unable to meet their obligations or obtain credit elsewhere.	

223 Steady levels of complaints about credit fees, Commission investigations, and class action cases identify the degree of concern consumers have about credit fees.

224 The MTF/Sportzone case will shortly be heard in the Supreme Court and is expected to provide guidance on which lender costs can be recovered from consumers as credit and other fees.

Other lending issues (including non-bank lenders)

Complaints to the Commission about non-bank lenders, due to their practices, shows a disproportionate level compared to their market share.	
Failure by lenders to make full disclosure to consumers makes this the most complained about credit-related behaviour to the Commission.	
Personal loans, including motor vehicle loans, are the most complained about loan type to the Commission.	
Motor vehicle loans generated 30% of all credit-related complaints to the Commission.	

225 Non-bank lenders continue to drive a disproportionate number of consumer complaints, particularly when their minor share of the lending market is taken into consideration. Any non-compliant practices by these lenders can have an impact on vulnerable consumers, who are the largest users of these lenders.

226 Full disclosure by lenders remains a point of contention, while personal loans and motor vehicle loans are prominent credit products generating complaints. It is noted that legislative reform has successfully mitigated the risk posed by APAAP clauses noted in the Consumer Issues 2014 paper.[91] However, potential non-compliance displayed by some in the industry suggests a level of continued advocacy remains desirable.

91. APAAP refers to all present and after acquired property.

The mobile trader business model

Some mobile traders are loading multiple direct debits, exposing consumers to multiple breach fees.	
Mobile traders sell to vulnerable consumers, further increasing their vulnerable position.	
Practices by mobile traders make this the second most complained about credit-related industry to the Commission.	
Some mobile traders continue to charge consumers after a product has been paid for creating a financial drain on the affected consumers.	

227 The mobile trader retailing model now generates the second most credit complaints to the Commission.

228 The work undertaken by the Commission in reviewing the mobile trader industry, and the Mangere workshops undertaken by the Commission with government agency representatives and non-governmental consumer advocates, has built a stronger evidence-based perspective of the impact this business model has on vulnerable consumers.

The disproportionate number of complaints generated by a small number of traders

A small number of traders are the subject of a disproportionate number of complaints from consumers.	

229 Commission complaints data identifies that 25% of all 2014 FTA complaints were generated by 24 traders. These 24 traders are mostly large companies with a high number of retail transactions. This pattern was identified in the Consumer Issues 2014 paper, helping to initiate the revised Trader Compliance Programme.

Telecommunications

The most complained about industry is telecommunications because of the high volume of sales, number of different contracts for fixed and mobile services, and a general dependence on its services.	
Certain circumstances lead to some mobile data consumers experiencing unintended high costs, leading to bill shock.	

230 Complaints about telecommunications companies just outnumbered those about domestic appliance retail in the past year (even after removing the $1.50 invoice fee and copper pass-through complaints). This is an increase from 2013 levels. Among other issues, the rapid uptake of smartphones has exposed more people to the prospect of unexpected or misunderstood data usage on their mobile device.

Domestic appliance retail

Practices across the domestic appliance retail industry make this the second most complained about industry to the Commission.	

231 As first noted in the Consumer Issues 2014 paper, domestic appliance retailers generate a large number of complaints to the Commission, with the largest domestic appliance retail stores continuing to feature in complaints data in 2015.

Detriment from scams and frauds

Advanced fee frauds conducted by those purporting to be in trade cause detriment to affected consumers.	
Frauds and scams conducted online by those purporting to be in trade cause detriment to affected consumers (themes include romance, employment, and investment).	

232 Scams and frauds continue to affect New Zealand consumers. It is also generally accepted that scams and frauds are more prevalent as people increasingly do more on the internet.

Detriment from online traders

The continued growth of online sales exposes more consumers to risk through their online purchases.	
Some domestic online traders use misleading product descriptions causing consumers to purchase inferior or unfit goods. (International online traders did not rate high enough for inclusion.)	
Unsubstantiated claims made online about products mislead consumers to their properties, quality, or value.	
Online trading generates a disproportionate level of complaints from consumers.	
Domestic traders generate a considerable number of online related complaints to the Commission.	
The facilitation of commercial transactions through social media limits consumer redress.	

233 Online transactions provide increased competition within New Zealand markets, but also expose consumers to greater potential detriment. Online transactions are predicted to continue increasing for some time.

234 No intention to supply, fake reviews, and the use of '.nz' continue to be issues, with our current evidence showing domestic online traders are causing the most impact on consumers.

Vulnerable consumers

A concentration of low income earners in some locations creates communities of vulnerable consumers.	
A segment of traders target vulnerable consumers, further increasing their vulnerable position.	
Some traders are using pressure selling techniques on vulnerable consumers.	

235 When considered with lending issues, and issues relating to the mobile trader retailing model, we can see a strong emphasis on issues that affect vulnerable consumers.

236 This is due to an increased evidence-base of these issues from the investigation work into the mobile trader industry, and the Commission-initiated workshops in Mangere with government and community agencies.

Industry associations

Participation in industry associations can enable anti-competitive conduct.

237 Industry associations continue to feature in investigations into price-fixing agreements and/or agreements that substantially lessen competition, particularly where an external shock or cost has affected members.

Misrepresentation of origin

Misrepresented country of origin labelling misleads consumers (eg, tourists) as to the quality, properties, and value of the product.

238 This issue has a strong evidence-base following successful Commission prosecutions (eg, alpaca rugs and duvets misrepresented as being of New Zealand origin).

Premiumisation of products

'Green-washing' of products premiumises them, misleading consumers to their quality.

239 This issue has a strong evidence-base following successful Commission prosecutions (eg, 'free-range' eggs and alpaca products). There is also wider staff recognition of premiumisation manifesting as credence claims and green-washing nationally and internationally.

Supermarkets

Supermarket misrepresentations cause low individual detriment but high cumulative detriment.

240 As noted earlier, supermarket, grocery stores, food, and beverage retail encompassed 43% of core retail spend in the past year. The high turnover can result in low individual detriment from misleading price signage potentially accumulating across the country into a large cumulative detriment.

241 It is considered likely that the Commission does not receive a proportionate number of complaints regarding this issue due to the low level of individual detriment. For example, it is not uncommon to receive only a single complaint, or very few complaints, about an issue that has the potential to affect many consumers across the country.

Motor vehicles

The motor vehicle industry is the third most complained about industry to the Commission.

242 Motor vehicle sales continue to generate complaints to the Commission. The failure of motor vehicle traders to display a valid CIN notice, and the misuse of 'as is, where is' by motor vehicle dealers are both behaviours noted in complaint narratives.

Subscription traps

Continuous payment authorities and ‘subscription traps’ cause consumers higher costs than anticipated.	

243 The growth of online entertainment subscription services over the past year exposes more consumers to continuous payment authorities and contracts that may involve additional fees (including break fees). More consumers may be drawn into paying more than initially anticipated for these services; consequently the rating for this issue has been raised to ‘high’ in the Consumer Issues 2015 paper.

Contracts and invoices

Contracts and invoices generate almost a third of FTA complaints to the Commission.	

244 1,222 FTA complaints were received about contracts and invoices in 2014, with many complaints being trader specific. Allegedly unfair and unreasonable contracts for educational software were also noted as generating a number of complaints. This issue is newly identified in the Consumer Issues 2015 paper.

Ranking all of the current issues

Credit Contracts and Consumer Finance Act:

Some lending institutions charge unreasonable fees, creating financial strain for borrowers unable to meet their obligations or obtain credit elsewhere.	
Some mobile traders are loading multiple direct debits, exposing consumers to multiple breach fees.	
Complaints to the Commission about non-bank lenders, due to their practices, shows a disproportionate level compared to their market share.	
Failure by lenders to make full disclosure to consumers makes this the most complained about credit-related behaviour to the Commission.	
Practices by mobile traders make this the second most complained about credit-related industry to the Commission.	
Personal loans, including motor vehicle loans, are the most complained about loan type to the Commission.	
Some mobile traders continue to charge consumers after a product has been paid for, creating a financial drain on the affected consumers.	
Motor vehicle loans generated 30% of all credit-related complaints to the Commission.	
The nature of payday lending services results in consumers incurring high costs for any credit obtained.	
Any churn within the finance industry erodes previous Commission work to protect consumers through education.	
Unregistered creditors operating outside of the regulated system increase the risk to their borrowers.	

Limited translations, other than English, of key loan documentation limits obligation and disclosure understanding of some consumers.	
Many consumers are unaware of the ramifications of APAAP (dragnet) clauses, leaving them vulnerable if they go into arrears.	
New migrants are unable to access credit due to the lack of a domestic credit history.	
Misunderstandings over gym contract break fees continues to generate a low level of complaints to the Commission.	
The limitation of mobile device displays affects the readability of mobile commerce loan documentation, limiting disclosure to consumers.	
Consumers providing inaccurate information on loan documents results in the overestimation of their ability to repay debt.	
The aggressive repossession of chattels as a business model increases the borrower's vulnerability.	
Ambiguous rent to buy agreements, result in unexpected financial obligations or losses to consumers.	

Fair Trading Act:

A small number of traders are the subject of a disproportionate number of complaints from consumers.	
Practices across the domestic appliance retail industry make this the second most complained about industry to the Commission.	
Misrepresented country of origin labelling misleads consumers (eg, tourists) as to the quality, properties, and value of the product.	
A concentration of low income earners in some locations creates communities of vulnerable consumers.	
Mobile traders sell to vulnerable consumers, further increasing their vulnerable position.	
The most complained about industry is telecommunications because of the high volume of sales, number of different contracts for fixed and mobile services, and a general dependence on its services.	
Supermarket misrepresentations cause low individual detriment but high cumulative detriment.	
The continued growth of online sales exposes more consumers to risk through their online purchases.	
Advanced fee frauds conducted by those purporting to be in trade cause detriment to affected consumers.	
Certain circumstances lead to some mobile data consumers experiencing unintended high costs, leading to bill shock.	
The motor vehicle industry is the third most complained about industry to the Commission.	

Some online traders use misleading product descriptions causing consumers to purchase inferior or unfit goods. a) for domestic online traders b) for international online traders	
Unsubstantiated claims made online about products mislead consumers to their properties, quality, or value.	
Continuous payment authorities and 'subscription traps' causes consumers higher costs than anticipated.	
Frauds and scams conducted online by those purporting to be in trade cause detriment to affected consumers (themes include romance, employment, and investment).	
'Green-washing' of products premiumises them, misleading consumers to their quality.	
A segment of traders target vulnerable consumers, further increasing their vulnerable position.	
Online trading generates a disproportionate level of complaints from consumers.	
Some traders are using pressure selling techniques on vulnerable consumers.	
Contracts and invoices generate almost a third of FTA complaints to the Commission.	
Domestic traders generate a considerable number of online related complaints to the Commission.	
The facilitation of commercial transactions through social media limits consumer redress	
Scams and frauds continue to cause consumer detriment.	
Misleading country of business by online traders (eg, use of .nz by international traders) potentially limits consumer redress.	
Unfair terms and conditions written into contracts expose consumers to financial detriment.	
The continued importation of uncertified products (eg, baby walkers and cots) exposes consumers to unsafe products.	
Misuse of 'was, now' and 'introduction' pricing misleads some consumers.	
The upsizing of sales with needless add-ons (eg, additional warranties and insurances) causes unnecessary costs to consumers.	
Pragmatic issues limit the Commission from policing errant online internationally-based traders (including social media-based trading), which disadvantages consumers.	
Misleading delivery timeframes cause consumer detriment.	
The geo-locking of digital markets disadvantages consumers.	

Use of complex or obfuscated pricing (eg, drip-pricing or surcharges) misleads consumers on the total price of goods and services.	
The practice of 'slamming' by some service providers causes detriment to affected consumers.	
Requesting payments, sometimes refundable, for warranty claims dissuades consumers from pursuing CGA remedies.	
Products or services sold through a reseller (eg, insurance products through a bank), affects disclosure to consumers.	
Failure to activate consumer purchased warranties and insurance policies (eg, master builder and income protection) leaves those consumers unprotected in the event of product failure or accident.	
The misleading structuring of opt-out products or services (eg, pre-ticked check boxes), mislead consumers into making unwanted or unrequired purchases.	
Some traders misrepresent their obligations for consumer redress by referring consumers directly to manufacturers.	
The Christchurch rebuild has created an opportunity for some traders to mislead consumers, causing detriment in already vulnerable communities.	
Any unfair contract terms on financial arrangements disadvantage consumers.	
The sale of counterfeit goods misleads consumers on product quality and value.	
Participation by consumers in spread betting and FOREX predictive programmes causes significant losses.	
Use of contracts that are difficult and/or expensive to end causes affected consumers to pay higher costs than anticipated.	
The 'freemium' business model, with the use of in-app purchases, misleads some consumers.	
Some paid endorsements mislead consumers.	
The nature and structure of the group-buying business result in consumers being misled.	
Removal of negative feedback from trader webpages misleads consumers.	
Failure to supply goods by some online traders, dependent on the consumer's payment method, causes detriment to affected consumers.	
Use of price customisation or discrimination by geographical location leaves some consumers at a disadvantage.	
Traders advertising inconsistently across different media channels misleads and disadvantages consumers.	
Lack of oversight and independent validation of content on price comparison websites results in the misleading of consumers.	
Shill bidding in online auctions misleads consumers into paying higher prices.	
Consumers are being misled into purchasing needless payment protection insurance (eg, lack of disclosure).	

Consumers misunderstand the extent of their obligations on phone contracts (eg, break fees) and continue to complain to the Commission.	
Misleading shipping costs by some online traders causes consumers detriment through additional costs.	
The misleading of consumers on transaction currencies and exchange rates causes higher costs for affected consumers.	
Penny auction sites confuse and mislead some consumers.	
Purchasing fake Facebook Likes by traders misleads consumers.	
The use of employee’s personal social media accounts to promote their employers’ interests misleads consumers.	

Commerce Act:

Participation in industry associations can enable anti-competitive conduct.	
Lack of awareness or understanding of the Commerce Act within industries can increase non-compliance.	
Exclusive dealing under certain circumstances can enable anti-competitive conduct.	
First right of refusal clauses are, in certain circumstance, anti-competitive.	
Large procurement projects can be susceptible to anti-competitive conduct.	
Creeping acquisitions can be harmful to market structures.	
Most favoured nation clauses can sometimes be anti-competitive.	
Big data (access) can create barriers to new entrants or expansion of incumbents.	
Perceived lack of aggression between traders in some industries affects competition.	
The small number of competitors and regular interaction between traders in some industries can adversely affect competition.	
Increasing tension between bricks and mortar and online traders can drive increased use of ‘resale price maintenance’ and/or price fixing.	
Exclusive supply contracts can limit competition (in the short and long term) and create artificially high prices in some markets.	
The Christchurch earthquakes created imbalances in demand and supply, increasing the possibility of anti-competitive conduct.	
Electricity distribution consistently generates complaints about anti-competitive conduct to the Commission.	

Emerging risks to consumers

245 There is a limited evidence-base for measuring the impact on consumers from emerging risks. This could cause a lower score than would ordinarily be attributed if the risk had emerged and manifested as an issue impacting on consumers. When the risk is judged to have emerged as an issue, its likelihood of happening will invariably increase, while the level of consumer detriment similarly has a stronger evidence-base for reappraisal.

246 Key emerging risks have been included here for information and monitoring purposes.

Disruptive intermediaries bring innovative products to market for the benefit of consumers, but if there are network effects and the innovation leads to market dominance there is the potential for harm to consumers.	
Disruptive intermediaries can bring significant benefits to consumers, but they may not prioritise achieving compliance with consumer laws.	
Increase in online subscription entertainment services potentially exposes consumers to unfair contracts.	
The misuse of attachment orders by creditors will disadvantage affected consumers.	
The increased uptake of mobile-commerce will expose an inexperienced pool of consumers to harm.	

What happened to last year's emerging risks?

247 The first five of last year's emerging risks below are now identified as issues, and can be found in this year's issues' list.

Consumers are being misled into purchasing payment protection insurance through a lack of knowledge and/or disclosure.	Emerged as an issue and ranked accordingly
The lack of oversight and validation of content on price comparison websites can mislead consumers.	Emerged as an issue and ranked accordingly
The use of employee's personal social media accounts to promote their employers' companies can mislead consumers.	Emerged as an issue and ranked accordingly
Requiring payments for warranty claims, dissuades consumers from pursuing CGA remedies.	Emerged as an issue and ranked accordingly
Readability of mobile commerce loan documentation can limit disclosure to consumers.	Emerged as an issue and ranked accordingly
New bank transaction fee structure monopolies could cost consumers more through surcharges or increased prices.	Maintaining a watching brief

Section 6 – Informing our trader compliance programme

248 This section describes our Trader Compliance Programme and lists the traders that generated 25% of our FTA complaints in 2014.

249 Only FTA complaints are considered in this section as the volume of complaints to the Commission on FTA matters is substantially higher than CCCFA and CA complaints, and FTA complaints show that only a small number of traders are the subject of 25% of complaints. This provides the Commission with the opportunity to reduce complaints by working with specific traders to monitor and improve their levels of compliance.

250 As previously stated in paragraphs 5 to 6 there are limitations on complaints information, including that:

250.1 the complaints data on its own does not itself indicate that any law has been breached;

250.2 the complaints data also does not establish that any harm has been caused to any consumer or competitors;

250.3 larger traders are likely to generate more complaints as a function of their scale. We have not adjusted for this;

250.4 an orchestrated complaints campaign against a trader can produce high complaint numbers;

250.5 where the public is aware that the Commission is unable to act on a matter, this can discourage complaints from the public;

250.6 complaints volumes for a trader can be about a single matter or multiple matters. Some matters that attract a high level of publicity can generate a large volume of complaints; and

250.7 the complaints data only reflects what consumers have chosen to report to the Commission or to other organisations that have in turn provided information to the Commission. Some complaints on the same matter are likely to have reached other complaints bodies instead of the Commission.

Traders that generate high levels of complaint

251 Analysis of 2014 data shows 24 traders (of the 1,860 named in FTA complaints) generated 25% of complaints. Many of these traders are large retailers with a national presence and a high volume of sales. While a higher volume of sales might reasonably be expected to generate a higher number of complaints, this is not always the case. Comparing similar traders within the same markets can identify imbalances in complaint numbers, suggesting that trader practices may also be a cause.

Trader Compliance Programme

252 One of the ways the Commission protects consumer interests is to encourage businesses to voluntarily comply with the law. The goal of the Trader Compliance Programme (the Programme) is to work with traders or industries to encourage compliance.

253 The Programme looks to work with traders to improve their compliance efforts over a two-year period. Focusing on those traders willing to engage voluntarily with the Commission in a positive and collaborative manner should produce the best results.

254 The Programme looks to use education, persuasion and cooperation to encourage trader compliance, rather than relying solely on enforcement, although enforcement always remains an option when dealing with these traders.

Analysis in context

255 Candidates are selected based on a range of factors, such as high complaint numbers, the candidates' presence in the marketplace, previous compliance history, the business model or structure, any current compliance activity, and identified issues and risks affecting consumers. When considering candidates who have high complaint numbers, the complaint narratives are read to help establish the nature and validity of the complaints, providing context that the numbers alone cannot provide.[92] Telecommunication providers were first to join the programme in 2010 as part of an industry wide focus by the Commission.

The selection process

256 The selection of the Programme participants followed the same matrix and process used to prioritise the issues and risks.

257 Likelihood and detriment are determined through the use of the measures listed below and qualitative analysis of the complaints generated by each trader:

257.1 the trader's presence in the marketplace – an indication of the potential impact on the market from the trader's actions;

257.2 extent of potential detriment – a high-value product, large market share, or trader's dominant position;

257.3 nature of the complaints – deliberate or inadvertent, whether their actions are calculated or ignorant; and/or

257.4 previous compliance history – has the trader's behaviour changed following an interaction with us?

Selected traders

258 There are currently eight traders in the Programme. As the Programme was only recently revitalised, there has been limited opportunity to influence complaint levels.

259 The inclusion of disclosure and cancellation requirements relating to extended warranties in recent law changes and the high number of complaints previously received about sales of this product by domestic appliance retailers, as well as concerns over unfair contract terms in relation to telecommunication providers, gives additional impetus to including some of these traders in the Programme.

260 The following traders are currently in the programme and working closely with us:

- Spark NZ Limited
- Vodafone NZ Limited
- Noel Leeming Group
- DSE (NZ) Limited
- Callplus Services Limited T/A Slingshot Communications
- Two Degrees Mobile Limited T/A 2degrees
- Harvey Norman Stores (NZ) Limited
- Orcon

92. Considering candidates on complaint numbers alone would result in an unbalanced selection process. For example, it is not unknown for complaints to be motivated by an orchestrated campaign about a matter not considered to breach the legislation we enforce.

The traders that generated 25% of FTA complaints in 2014

As this table refers to the volume of complaints against a particular trader, readers should note the following caveats:

- The complaints data on its own does not itself indicate that any law has been breached.
- The complaints data also does not establish that any harm has been caused to any consumer or competitors.
- Larger traders are likely to generate more complaints as a function of their scale. We have not adjusted for this.
- An orchestrated complaints campaign against a trader can produce high complaint numbers.
- Where the public is aware that the Commission is unable to act on a matter, this can discourage complaints from the public.
- Complaints volumes for a trader can be about a single matter or multiple matters. Some matters that attract a high level of publicity can generate a large volume of complaints.
- The complaints data only reflects what consumers have chosen to report to the Commission or to other organisations that have in turn provided information to the Commission. Some complaints on the same matter are likely to have reached other complaints bodies instead of the Commission.

Table 6: The 24 traders that generated 25% of FTA complaints in 2014.

2014	No. of complaints
Spark NZ Trading Limited NB The introduction of a $1.50 paper invoice processing fee by Spark in 2014 generated 31 complaints. These complaints were subsequently considered not to be a likely breach of the FTA. Refer to Section 3: Telecommunications.	128
Vodafone NZ Limited NB The introduction of a $1.50 paper invoice processing fee by Vodafone in 2014 generated 15 complaints. These complaints were subsequently considered not to be a likely breach of the FTA. Refer to Section 3: Telecommunications.	112
Auckland Academy of Learning Limited	106
ANZ National Bank Limited T/A The National Bank and ANZ NB 96 of these complaints related to the interest rate swap investigation. Most were generated by a Commission request for further complaints. Refer to section 3: Trading Banks.	99
Sellers on Trade Me	78
New Zealand Business Funding Centre	50
Progressive Enterprises Ltd T/A Countdown	45
Air New Zealand Limited	43
GrabOne Limited	39
Noel Leeming Group Limited T/A Noel Leeming	35
Brand Developers Limited T/A TV Shop	35
Foodstuffs (NZ) Ltd T/A New World/PAK’nSAVE/Four Square	34
ASB Bank Limited NB 29 of these complaints related to the interest rate swap investigation. Most were generated by a Commission request for further complaints. Refer to section 3: Trading Banks.	33
Parking Enforcement Services	31
DSE (NZ) Limited T/A Dick Smith Electronics	30
DB Breweries Limited NB A templated complaint letter campaign about DB’s Radler style beer generated most of these complaints.	29
Callplus Services Limited T/A Slingshot Communications	27
Dead Sea Skincare	27
The Warehouse Group Limited T/A The Warehouse	26
NZ Sale Limited	26
KLiB Technologies Group Limited T/A 24/7 Hosting and Web Design	25
Two Degrees Mobile Limited T/A 2degrees	24
PB Technologies Limited	24
IPL Laser Solutions Limited	23

Attachment A – Enquiries and complaints for 2013 and 2014

Complaints are a subset of enquiries. Complaints are identified as potential breaches of the Act. Also see, 'Limitations on complaints information' at paragraphs 5 to 6.

	2014	2013
Total enquiries to the Commission	**9,610**	**8,261**
Competition Branch	**6,707**	**5,281**
Commerce Act		
Complaints	414	260
Enquiries	71	152
	485	**412**
Credit Contracts and Consumer Finance Act		
Complaints	146	191
Enquiries	37	79
	183	**270**
Fair Trading Act		
Complaints	4,377	3,425
Enquiries	1,662	1,434
	6,039	**4,859**
Regulation Branch	**9**	**18**
Dairy/Electricity/Telecommunications Acts		
Complaints	1	0
Enquiries	8	18
	9	**18**
Contacts not a Commission issue	**2,894**	**2,962**
Not a Commission issue		
Complaints	5	3
Enquiries	2,889	2,959
	2,894	**2,962**

Attachment B – NZFFBS client data[93]

Table 7: Type of debt ranked by the number of instances reported to the NZFFBS.

	Type of debt by the number of instances	Instances	Total debt
1	Government departments	21,558	$77,212,611
2	Retail goods / store cards	15,223	$28,012,348
3	Finance company loans / cards (not mortgages)	13,844	$99,112,489
4	Professional services	12,644	$21,699,846
5	Bank loans / credit cards (not mortgages)	11,831	$72,335,686
6	Utilities	5,942	$5,558,048
7	Courts	4,753	$9,377,234
8	Communications	4,280	$8,151,353
9	Family friend other	3,766	$11,022,343
10	Accommodation, rent / board	2,779	$4,716,855
11	Mortgages	1,668	$206,166,800
		98,288	**$543,365,614**

Table 8: Traders ranked by the number of instances reported to the NZFFBS

	Traders by total number of instances (top 25)	Instances	Total debt
1	Work and Income	14,691	$37,582,490
2	MoJ / Courts - fines or penalties	4,849	$8,748,528
3	Baycorp (NZ) Ltd	3,943	$10,372,515
4	ANZ Ltd	3,485	$75,097,907
5	GE Finance and Insurance NZ Ltd	2,638	$29,801,010
6	Westpac	2,433	$54,593,643
7	Home Direct Ltd	2,312	$1,481,469
8	Inland Revenue Department	2,146	$17,726,089
9	Dun & Bradstreet (New Zealand) Ltd	1,917	$3,086,759
10	Personal loan	1,893	$6,842,727
11	BNZ Ltd	1,688	$33,030,892
12	Spark New Zealand (formerly Telecom New Zealand Ltd)	1,307	$5,768,483
13	Q Card Consumer Finance Ltd	1,278	$4,331,982
14	ASB Ltd	1,240	$32,998,150
15	Contact Energy	1,208	$1,015,585
16	DTR	1,163	$2,663,191
17	Student loan	1,152	$16,159,847
18	Instant Finance NZ Limited	943	$4,518,110

93. The debt presented by NZFFBS for budgeting assistance doesn't necessarily evidence wrong doing by the consumer or lender. The debts are debts 'held' by consumers seeking advice from budget advisers. There is no visibility of the specific circumstances around each debt, see paragraphs 201-202.

19	Sky Network Television Limited	895	$237,288
20	Doctor	879	$125,853
21	Rent	872	$1,042,544
22	Genesis Energy Limited	821	$441,489
23	EC Credit Control Ltd	805	$1,979,949
24	Finance Now Ltd	777	$1,542,626
25	Vodafone	773	$460,262

Table 9: Type of debt ranked by total amount owed as reported to the NZFFBS

	Type of debt by total owed	Total debt	Instances
1	Mortgages	$206,166,800	1,668
2	Finance company loans / cards (not mortgages)	$99,112,489	13,844
3	Government departments	$77,212,611	21,558
4	Bank loans / credit cards (not mortgages)	$72,335,686	11,831
5	Retail goods / store cards	$28,012,348	15,223
6	Professional services	$21,699,846	12,644
7	Family friend other	$11,022,343	3,766
8	Courts	$9,377,234	4,753
9	Communications	$8,151,353	4,280
10	Utilities	$5,558,048	5,942
11	Accommodation, rent / board	$4,716,855	2,779
		$543,365,614	**98,288**

Table 10: Traders ranked by total amount owed as reported to the NZFFBS.

	Traders by total owed (top 25)	Total debt	Instances
1	ANZ Ltd	$75,097,907	3,485
2	Westpac	$54,593,643	2,433
3	Work and Income	$37,582,490	14,691
4	BNZ Ltd	$33,030,892	1,688
5	ASB Ltd	$32,998,150	1,240
6	GE Finance and Insurance NZ Ltd	$29,801,010	2,638
7	Club Finance Ltd	$19,461,624	66
8	Inland Revenue Department	$17,726,089	2,146
9	Student loan	$16,159,847	1,152
10	NZ Home Loans	$10,555,583	56
11	Baycorp (NZ) Ltd	$10,372,515	3,943
12	Mortgages (generic listing)	$9,503,702	79
13	Kiwibank	$9,466,671	603
14	The Co-operative Bank Ltd (formerly PSIS)	$9,296,850	314
15	MoJ/Courts - fines or penalties	$8,748,528	4,849
16	Personal loan	$6,842,727	1,893
17	Spark NZ (formerly Telecom New Zealand Ltd)	$5,768,483	1,307
18	SBS Bank	$4,667,902	33
19	TSB Bank Ltd (Taranaki Savings Bank)	$4,603,320	78
20	Instant Finance NZ Limited	$4,518,110	943
21	National Bank	$4,398,630	275
22	Q Card Consumer Finance Ltd	$4,331,982	1,278
23	Motor Trade Finances Ltd	$4,048,382	643
24	UDC Finance Ltd	$3,218,160	248
25	Dun & Bradstreet (New Zealand) Ltd	$3,086,759	1,917

Attachment C – The issues identified as generating the most concern in the 2014 Issues Assessment

ID	Issue
1	New Zealand's geographic isolation can limit competition in markets
2	Consumers are charged excessive fees by some lending institutions
3	A small number of traders cause a disproportionate level of harm to consumers
4	Scams and frauds are becoming more prevalent and causing increasing detriment to consumers
5	Use of multiple direct debits by some truck shops causes harm to consumers (eg, some continue debits after goods are paid for)
6	Car loans generated 40% of consumer complaints
7	The Commission receives the most complaints about the domestic appliance retail industry
8	The current level of consumer detriment caused by online traders is likely to grow significantly
9	Misleading country of business by online traders limits consumer redress (eg, use of .CO.NZ by international traders)
10	The non-delivery of goods by some online traders generated 12% of consumer complaints to the Commission
11	Fake reviews and testimonials on websites can misrepresent the quality of goods or services to consumers
12	Jurisdictional issues prevent the Commission from policing errant online internationally-based traders (including F-commerce traders) which disadvantages consumers
13	The close personal relationships between individuals in companies in an industry can facilitate agreements and/or understandings, which can affect competition in markets
14	Industry associations sometimes enable/assist cartel formation, which affect competition in markets
15	The upsizing of sales with needless add-ons (eg, additional warranties and insurances) causes unnecessary cost to consumers
16	Churn in lower tier lenders erodes previous Commission work to protect consumers
17	Lower tier lenders continue to drive a high percentage of complaints (50%) from consumers
18	Consumers are not informed of the ramifications of APAAP (dragnet) clauses
19	Truck shops and similar traders are the third most complained about lender type by consumers
20	Consumers misunderstand the extent of their obligations on phone contracts, including break fees, and continue to complain to the Commission.
21	Personal loans are the second most complained about credit type (22%)
22	Insufficient disclosure to consumers is the most complained about behaviour to the Commission (51%)

Notes

i Half Year Economic and Fiscal Update 2014. NZ Treasury, 16 December 2014. Retrieved online on 23 December 2014 at http://www.treasury.govt.nz/budget/forecasts/hyefu2014/002.htm

ii Monetary Policy Statement. Reserve Bank of NZ, March 2015. Retrieved online on 04 June 2015 at http://www.rbnz.govt.nz/monetary_policy/monetary_policy_statement/2014/mpsdec14.pdf

iii Labour Market Statistics: December 2014 Quarter. Retrieved online on 25 February 2015 at http://www.stats.govt.nz/browse_for_stats/income-and-work/employment_and_unemployment/LabourMarketStatistics_HOTPDec14qtr.aspx

iv Personal communication with the NZIER.

v National Construction Pipeline. New Zealand Building and Construction Productivity Partnership, October 2014 Retrieved online on 20 January 2015 at www.buildingvalue.co.nz/publications

vi Building Consents Issued: October 2014. Statistics NZ, 28 November 2014. Retrieved online on 09 December 2014 at http://www.stats.govt.nz/browse_for_stats/industry_sectors/Construction/BuildingConsentsIssued_HOTPOct14.aspx

vii Residential Construction Benchmarking Costs (Report for the Ministry of Business, Innovation and Employment). NZIER, 17 October 2014. Retrieved online on 04 May 2015 at http://buildingvalue.co.nz/sites/default/files/Final-report-for-MBIE-17-October.pdf

viii Quarterly Canterbury Job-matching Report. MBIE, September 2014. Retrieved online on 23 December 2014 at http://www.dol.govt.nz/publications/research/canterbury-rebuild/canterbury-job-matching-sep-2014.pdf

ix Building Consents Issued: October 2014. Statistics NZ, 28 November 2014. Retrieved online on 09 December 2014 at http://www.stats.govt.nz/browse_for_stats/industry_sectors/Construction/BuildingConsentsIssued_HOTPOct14.aspx

x Quarterly Canterbury Job-matching Report. MBIE, September 2014. Retrieved online on 23 December 2014 at http://www.dol.govt.nz/publications/research/canterbury-rebuild/canterbury-job-matching-sep-2014.pdf

xi Business Operations Survey 2013 released 2 April 2014. Statistics NZ. Retrieved online on 18 December 2014 at http://www.stats.govt.nz/browse_for_stats/businesses/business_growth_and_innovation/BusinessOperationsSurvey_HOTP2013.aspx

xii Business Operations Survey 2013 released 2 April 2014. Statistics NZ. Retrieved online on 18 December 2014 at http://www.stats.govt.nz/browse_for_stats/businesses/business_growth_and_innovation/BusinessOperationsSurvey_HOTP2013.aspx

xiii Business Operations Survey 2013 released 2 April 2014, Statistics NZ. Retrieved online on 18 December 2014 at http://www.stats.govt.nz/browse_for_stats/businesses/business_growth_and_innovation/BusinessOperationsSurvey_HOTP2013.aspx

xiv Retail Trade Survey: September 2014 Quarter. Statistics NZ, 17 November 2014. Retrieved online on 15 January 2015 at http://www.stats.govt.nz/browse_for_stats/industry_sectors/RetailTrade/RetailTradeSurvey_HOTPSep14qtr.aspx

xv BNZ Online Retail Sales Report. BNZ, October 2014. Retrieved online on 15 January 2015 at https://www.bnz.co.nz/static/www/docs/retail-sales-index/or2014-11.pdf

xvi Retail Trade Survey: September 2014 quarter. Statistics NZ, 17 November 2014. Retrieved online on 15 January 2015 at http://www.stats.govt.nz/browse_for_stats/industry_sectors/RetailTrade/RetailTradeSurvey_HOTPSep14qtr.aspx

xvii The Retail Market in New Zealand: An Analysis 2013. NZ Retailers Association, 2013. Retrieved online on 12 January 2015 at http://www.retail.org.nz/downloads/2013%20Retail%20Market%20in%20NZ.pdf

xviii BNZ Online Retail Sales Report. BNZ, October 2014. Retrieved online on 15 January 2015 at https://www.bnz.co.nz/static/www/docs/retail-sales-index/or2014-11.pdf

xix Personal communication with the Domain Name Commission

xx Financial Markets Authority Strategic Risk Outlook 2015. FMA. Retrieved online on 24 June 2015 at https://www.fma.govt.nz/fmas-role/corporate-publications/strategic-risk-outlook/

xxi T31 Non-deposit Taking Finance Companies: Assets and Liabilities ($m). Reserve Bank of New Zealand. Retrieved online on 04 December 2014 at http://www.rbnz.govt.nz/statistics/tables/t31/

xxii FIPS Non Banks – Review of 2014. KPMG, 2014. Retrieved online on 18 December 2014 at http://www.kpmg.com/NZ/en/IssuesAndInsights/ArticlesPublications/FIPS/Pages/FIPS-Non-Banks-2014.aspx

xxiii Household Debt. Reserve Bank of New Zealand Statistics, 08 December 2014. Retrieved online on 02 February 2015 at http://www.rbnz.govt.nz/statistics/key_graphs/household_debt/

xxiv Household Debt. Reserve Bank of New Zealand Statistics, 08 December 2014. Retrieved online on 02 February 2015 at http://www.rbnz.govt.nz/statistics/key_graphs/household_debt/

xxv C21 Key Household Financial Statistics (quarterly). Reserve Bank of New Zealand Statistics. Retrieved online on 02 February 2015 at http://www.rbnz.govt.nz/statistics/key_graphs/household_debt/

xxvi Affordability improved slightly for buyers in Auckland and Christchurch. Interest.co.nz. Retrieved online on 02 February 2015 at http://www.interest.co.nz/property/73805/affordability-improved-slightly-first-home-buyers-auckland-and-christchurch-last-mont

xxvii Flush owners cashing in on rising house values. NZ Herald online, 12 November 2014. Retrieved online on 09 March 2015 at http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11356914

xxviii The big banks have nearly 25% of their mortgage books paying interest only. Interest.co.nz. Retrieved online on 19 June 2015 at http://www.interest.co.nz/opinion/72818/big-banks-have-nearly-25-their-mortgage-books-paying-interest-only-gareth-vaughan-asks

xxix Reserve Bank of New Zealand Financial Stability Report, May 2015. Retrieved online on 19 June 2015 at http://www.rbnz.govt.nz/financial_stability/financial_stability_report/fsr-may2015.pdf

xxx John Symond urges ban on interest only loans to owner occupiers. The Sydney Morning Herald, 16 March 2015. Retrieved online on 10 June 2015 at http://www.smh.com.au/business/banking-and-finance/john-symond-urges-ban-on-interest-only-loans-to-owner-occupiers-20150316-143qbp.html

xxxi C12 Credit Card Balances. Reserve Bank of New Zealand Statistics, January 2015. Retrieved online on 02 February 2015 at http://www.rbnz.govt.nz/statistics/tables/c12/

xxxii Credit card interest comparison. Interest.co.nz. Retrieved online on 02 February 2015 at http://www.interest.co.nz/borrowing/credit-cards

xxxiii Insolvency Statistics and Debtor Profile Report. July 2013 to June 2014. New Zealand Insolvency and Trustee Service. MBIE, 2014. Retrieved online on 02 February 2015 at http://www.insolvency.govt.nz/cms/site-tools/about-us/statistics/statistical-data-reports/its-statistical-data-report-2013-2014.pdf

xxxiv CMA Strategic Assessment. Competition and Markets Authority, November 2014, page 16. Retrieved online on 22 January 2015 at https://www.gov.uk/government/publications/cma-strategic-assessment

xxxv APC issue 411 January 2015.

xxxvi 2014 Social Media Statistics in New Zealand. Traverse, 2015. Retrieved online on 23 January 2015 at http://traverse.net.nz/2014-social-media-statistics/

xxxvii The Deloitte Consumer Review, Digital Predictions 2014. Deloitte, 2014. Retrieved online on 22 January 2015 at http://www2.deloitte.com/content/dam/Deloitte/ch/Documents/consumer-business/ch_cb_en_the_deloitte_consumer_review_digital_predictions_2014.pdf

xxxviii Personalised pricing causing concerns for shoppers. TV3 News, 28 October 2014. Retrieved online on 22 January 2015 at http://www.3news.co.nz/world/personalised-prices-causing-concern-for-online-shoppers-2014102810#axzz3SiKtGRsh

xxxix Grocery marketing raises eyebrows. Stuff.co.nz, 15 November 2014. Retrieved online on 17 November 2014 at http://www.stuff.co.nz/business/money/63227921/Grocery-marketing-raises-eyebrows

xl 2014 Social Media Statistics in New Zealand. Traverse, 2015. Retrieved online on 23 January 2015 at http://traverse.net.nz/2014-social-media-statistics/

xli Empowering and Protecting Consumers in the Internet Economy, OECD Digital Economy Papers No 216 2013, page 15. Retrieved online on 08 January 2014 at http://www.oecd-ilibrary.org/docserver/download/5k4c6tbcvvq2.pd f?expires=1389146510&id=id&accname=guest&checksum=8C4EC2EABE52BCE4C2B8752B0B984FF7

xlii Have you used social media to complain? NZ Herald, 22 October 2013. Retrieved online on 22 March 2015 at http://www.nzherald.co.nz/lifestyle/news/article.cfm?c_id=6&objectid=11144280

xliii 11 Social Media Marketing Predictions to watch for in 2014. Socialmediaexaminer.com, 01 January 2014. Retrieved online on 23 January 2015 at http://www.socialmediaexaminer.com/social-media-predictions-2014/

xliv Discussion Paper: What Do We Mean by 'Vulnerable' and 'Disadvantaged' Consumers? Consumer Affairs Victoria, 2004. Retrieved online on 10 March 2014 at http://www.consumer.vic.gov.au/library/publications/resources-and-education/research/what-do-we-mean-by-vulnerable-and-disadvantaged-consumers-discussion-paper-2004.pdf

xlv Looking Out for the Vulnerable Consumer. FTC website. Retrieved online on 10 March 2014 at http://www.ftc.gov.bb/index.php?option=com_content&task=view&id=149&Itemid=28

xlvi Interactive: There are 1.5 million households in New Zealand. Here's what they earn. NZ Herald, 01 December 2014. Retrieved online on 01 December 2014 at http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11366790

xlvii 2013 QuickStats about families and households. Statistics NZ, 2014. Retrieved online on 23 December 2014 at http://www.stats.govt.nz/Census/2013-census.aspx

xlviii Housing in Auckland: Trends in Housing from the Census of Population and Dwellings 2013. Statistics NZ, December 2014. Retrieved online on 14 January 2015 at http://www.stats.govt.nz/browse_for_stats/people_and_communities/ housing/auckland-housing-1991-2013.aspx

xlix 2013 QuickStats about Families and Households. Statistics NZ, 2014. Retrieved online on 23 December 2014 at http://www.stats.govt.nz/Census/2013-census.aspx

l Mangere consumer organisations meeting, November 2014.

li Housing in Auckland: Trends in Housing from the Census of Population and Dwellings 2013. Statistics NZ, December 2014. Retrieved online on 14 January 2015 at http://www.stats.govt.nz/browse_for_stats/people_and_communities/ housing/auckland-housing-1991-2013.aspx

lii 10th Annual Demographia International Housing Affordability Survey 2014. Retrieved online on 13 January 2015 at http://www.demographia.com/dhi.pdf

liii Median multiples. Interest.co.nz, updated 27 November 2014. Retrieved online on 08 December 2014 at http://www.interest.co.nz/property/house-price-income-multiples

liv Household Economic Survey (Income): Year Ended June 2014. Statistics NZ, 27 November 2014. Retrieved online on 13 January 2015 at http://www.stats.govt.nz/browse_for_stats/people_and_communities/Households/HouseholdEconomicSurvey_HOTPYeJun14.aspx

lv Median multiples. Interest .co.nz, updated 27 November 2014. Retrieved online on 08 December 2014 at http://www.interest.co.nz/property/house-price-income-multiples

lvi Mangere consumer organisations meeting, November 2014

lvii 2013 QuickStats about Income. Statistics NZ, 2014. Retrieved online on 11 January 2015 at http://www.stats.govt.nz/Census/2013-census/profile-and-summary-reports/quickstats-income.aspx

lviii 2013 QuickStats about Income. Statistics NZ, 2014. Retrieved online on 11 January 2015 at http://www.stats.govt.nz/ Census/2013-census/profile-and-summary-reports/quickstats-income.aspx

lix 2013 QuickStats about Income. Statistics NZ, 2014. Retrieved online on 11 January 2015 at http://www.stats.govt.nz/ Census/2013-census/profile-and-summary-reports/quickstats-income.aspx

lx The Retail Market in New Zealand: An Analysis 2013. New Zealand Retailers Association, 2013. Retrieved online on 9 January 2014 at http://www.retail.org.nz/downloads/2013%20Retail%20Market%20in%20NZ.pdf

lxi 2013 QuickStats about Income. Statistics NZ, 2014. Retrieved online on 11 January 2015 at http://www.stats.govt.nz/Census/2013-census/profile-and-summary-reports/quickstats-income.aspx

lxii Household Incomes in New Zealand: Trends in Indicators of Inequality and Hardship 1982 to 2013, page 170. Retrieved online on 24 June 2015 at http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/monitoring/ household-incomes/index.html

lxiii Mobile Truck Shops. Consumer NZ, 07 April 2015. Retrieved online on 24 June 2015 at www.consumer.org.nz/articles/truck-shops

lxiv Targeting Scams. Report of the ACCC on Scams Activity 2013. Retrieved online on 04 February 2015. https://www.accc.gov.au/ publications/targeting-scams-report-on-scam-activity/targeting-scams-report-of-the-accc-on-scam-activity-2013

lxv Deutsche Bahn Brings Record Damages Claim. Global Competition Review. Retrieved online on 18 December 2014 at http://globalcompetitionreview.com/news/article/37495/deutsche-bahn-brings-record-damages-claim/

lxvi Telcos are under the gun from Consumer NZ. Stuff.co.nz, 05 February 2015. Retrieved online on 05 May 2015 at http://www.stuff.co.nz/business/industries/65805000/telcos-are-under-the-gun-from-consumer-nz

ISBN 978-1-869454-63-0

Phone: 0800 943 600
Write: Contact Centre, PO Box 2351, Wellington 6140
Email: contact@comcom.govt.nz

www.comcom.govt.nz