



Australian
Competition &
Consumer
Commission

2006—07

Annual report

ACCC incorporating the AER

FOSTERING COMPETITIVE, EFFICIENT, FAIR AND INFORMED MARKETS





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EXECUTIVE OFFICE



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29 August 2007

The Honourable Chris Pearce MP
Parliamentary Secretary to the Treasurer
House of Representatives
Parliament House
CANBERRA ACT 2600

In accordance with subsection 171(1) of the *Trade Practices Act 1974*, the Australian Competition and Consumer Commission is pleased to present you with its twelfth annual report, covering the ACCC's operations for the year ended 30 June 2007.

Handwritten signature of Graeme Samuel in black ink.

Graeme Samuel
Chairman

Handwritten signature of Louise Sylvan in black ink.

Louise Sylvan
Deputy Chair

Handwritten signature of Stephen King in black ink.

Stephen King
Commissioner

Handwritten signature of John Martin in black ink.

John Martin
Commissioner

Handwritten signature of David Smith in black ink.

David Smith
Commissioner

Handwritten signature of Edward Willett in black ink.

Edward Willett
Commissioner

about this report

The structure of the report closely follows the outcome and output structure of the ACCC portfolio budget statement 2006–07.

outcome one

to enhance the social and economic welfare of the Australian community by fostering competitive, efficient, fair and informed Australian markets

The ACCC seeks to:

- > promote effective competition and informed markets
- > encourage fair trading and protect consumers
- > regulate infrastructure service markets and other markets where competition is restricted

In reporting performance information this structure is aligned with the output groups:

output 1.1.1

compliance with competition, fair trading and consumer protection laws and appropriate remedies when the law is not followed

output 1.1.2

competitive market structures and informed behaviour

In these chapters information is given on litigation and public settlements including court enforceable undertakings.

Summary resources tables for output groups are given on page 23.

Compliance with the requirements for annual reports of the Department of Prime Minister and Cabinet is shown on page 237.

This report includes the annual report of the Australian Energy Regulator, prepared in accordance with s. 44AAJ of the *Trade Practices Act 1974*. The AER is part of the ACCC. It is not a separate agency under the *Financial Management and Accountability Act 1997* or the *Public Service Act 1999*. The ACCC annual report includes the reporting requirements and financial accounts for the AER. The report on the AER's operations during the year is contained in part two of this report.

To obtain copies contact the ACCC on (02) 6243 1143.

For more information contact the director of publishing on (02) 6243 1148, or view the annual report on www.accc.gov.au



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part one
overview of the ACCC



Close interaction with domestic and international regulatory agencies has shed light on scams, lifted the veil on cartels and helped prevent anti-competitive mergers. These relationships are invaluable to the ACCC in its determination to protect Australian consumers.

Graeme Samuel | Chairman



review

The ACCC's role as economic regulator and enforcer of competition and consumer protection provisions of the *Trade Practices Act 1974* has become more important as the Australian economy continues to grow.

2006–07 was a period of new direction in trade practices law and vigorous enforcement of the Act. This year we saw:

- > the commencement of amendments to the competition provisions of the Act following the Dawson Committee review
- > ACCC merger assessments reaching a record high, with the number of informal merger reviews undertaken increasing by more than 40 per cent on the 2005–06 financial year
- > a number of successful court and tribunal outcomes in competition and regulatory matters where the ACCC's views were upheld
- > two new mandatory codes of conduct—the Oilcode and the Horticulture Code of Conduct; the ACCC is responsible for promoting and achieving industry compliance with these mandatory codes—e.g. educating industry participants about the rights and obligations imposed by these codes, liaising with industry stakeholders and taking enforcement action when necessary
- > the provision under Part IIIA was used for the first time in November 2006 when Services Sydney notified the ACCC of a dispute regarding the methodology of pricing access to Sydney Water's declared sewage transportation services
- > the ACCC examining the prices paid to farmers for livestock and the prices paid by consumers for red meat.

legislative amendments

Parliament passed the first of a series of significant changes to the Trade Practices Act. The amendments to the restrictive trade practices provisions in Part IV of the Act flow from recommendations made by the Dawson Committee in its report of January 2003. They implement some of the most fundamental changes to the Act since its inception more than 30 years ago.

The increase in penalties has improved the deterrence effect of the Act. Under the changes introduced, corporations can now be penalised the maximum of \$10 million, three times the value of the gain from the breach, or if the gain cannot be accurately estimated, 10 per cent of the turnover of the body corporate and all related bodies. The courts can also ban an individual from being a director of a business and prohibit corporations from protecting directors from penalties.

Other amendments to the Act foreshadowed by the government relate to unconscionable conduct, misuse of market power and the introduction of criminal sanctions for hard-core cartel activity.

On the regulatory side, changes to the National Access Regime (Part IIIA) gave specific direction to the ACCC about the principles that should be taken into account when making regulatory decisions. The amendments include an objects clause to clarify that Part IIIA focuses on efficient use of and investment in infrastructure to promote competition in upstream and downstream markets.

enforcing the law

The ACCC continued its commitment to stamp out the most serious contraventions by business, such as price fixing and market sharing. The ACCC's investigation and litigation profile for 2006–07 reflects particular concerns about an array of anti-competitive conduct and about consumer and small business issues, including product safety, health and medical claims, online scams, and false income-earning and business opportunities.

The broad range of enforcement options available under the Trade Practices Act allows the ACCC to respond quickly and effectively to the many challenges facing us as a regulatory agency—whether in legislation, market conditions or technology.

In proceedings against Woolworths Limited, the Federal Court found that the company had entered into anti-competitive agreements and primary boycotts through restrictive agreements with operators of licensed premises for the purpose of substantially lessening competition in packaged takeaway liquor markets. In December 2006 the Federal Court ordered Woolworths to pay penalties totalling \$7 million and make declarations. Proceedings regarding other orders are continuing.

The Federal Court also ordered Barton Mines Corporation and Barton International Inc. to pay penalties totalling \$1.525 million after they admitted entering into an illegal market-sharing arrangement for the supply of alluvial garnet in Australia. The Federal Court declared that the two companies had breached s. 45 of the Act by entering into an agreement. The companies agreed to restrictions in relation to the geographic territories into which each would be permitted to supply alluvial garnet. The Federal Court also ordered injunctions against Barton Mines Corporation and Barton International Inc. preventing them from engaging in similar conduct in contravention of s. 45 of the Act for two years and a contribution to the ACCC's costs of \$75 000.

In May 2007 ACCC proceedings against petrol retailers and distributors in the Geelong region were dismissed by the Federal Court. The ACCC originally instituted proceedings against 18 respondents, alleging that they had fixed the retail price of petrol in the Geelong area in contravention of the Act. A number of respondents made admissions before the trial and some did not contest the allegations. The case turned on the Federal Court's interpretation of the facts and evidence presented. The ACCC is considering the implications of the court's judgment in this matter.

The ACCC remains committed to investigating and prosecuting alleged cartel conduct.

A number of resale price maintenance and secondary boycott cases were concluded this year, with the Federal Court imposing substantial penalties.

In a long-running case under ss. 46 and 47 of the Act, the Full Federal Court dismissed the ACCC appeal for findings that Baxter Healthcare Pty Ltd had breached the exclusive dealing and misuse of market power provisions of the Act. The appeal followed the first decision that Baxter was protected by Crown immunity in dealing with various state government departments. The court found that without that protection Baxter would have breached the exclusive dealing and misuse of market power provisions of the Act. After the Full Federal Court's dismissal of the ACCC's appeal, the ACCC obtained special leave to appeal to the High Court of Australia on 9 February 2007. The matter was heard by the High Court on 15 May 2007, judgment was reserved.

In a case involving misrepresentations to small business operators about profitability and the potential risks relating to the sale of phone card vending machine distributorships, the Federal Court found that Global Prepaid Communications Pty Ltd had breached the Act and made declarations, injunctions and ordered compensation totalling more than \$3.5 million to be paid to 23 small businesses and costs.

In another small business matter the ACCC was successful in obtaining orders against BIS Cleanaway for misleading or deceptive and unconscionable conduct relating to signing up customers for waste disposal contracts in Rockhampton.

The ACCC took action to protect consumers against misleading health and medical claims. Proceedings during the year included action against NuEra Health Pty Limited for cancer cure claims, Menopause Institute of Australia for promoting natural hormone replacement therapy, Emerald Ocean Distributors Pty Ltd for promoting slimming products and Advanced Medical Institute Pty Ltd for misleading use of celebrity endorsements.

Skippy Australia Pty Ltd was fined \$860 000 for breaching a mandatory consumer product safety standard for baby walkers and misrepresenting a cot's compliance with the Australian standard. The Commonwealth Director of Public Prosecution (CDPP), acting on information provided by the ACCC, laid charges against the specialist nursery retailer. Skippy Australia supplies goods nationally from warehouse premises through its own website and on the Australian eBay auction website. In handing down its decision, the Federal Court indicated that penalties had to be high to deter other suppliers from engaging in similar conduct. The potential dangers posed to infants using products that are non-compliant with mandatory consumer product safety standards are extremely serious and warranted criminal prosecution in this matter.

In another product safety matter the ACCC took action against British American Tobacco Australia Ltd (BATA) for supplying Limited Edition Dunhill cigarette wallet packs (also known as Dunhill wallet packs). The ACCC alleged that the Dunhill wallet packs did not comply with the prescribed consumer product information standard for tobacco labelling. The Federal Court made orders by consent that BATA will not in the future supply the Dunhill wallet packs, or any type of similar pack, in Australia. The orders were made without a finding of liability. In February 2007 the government amended the regulations relating to the labelling of tobacco products to clarify the law as it relates to packaging innovations and adhesive labels.

The ACCC concluded 24 cases of the 58 matters before the court during the year, plus accepted 52 public s. 87B undertakings; commenced 28 new cases, eight of which were concluded this year and did not intervene in any proceedings in the reporting period.

criminal prosecutions—obstruction

The ACCC views obstruction with its formal information-gathering powers as a serious issue. For the first time the ACCC gave information to the CDPP, who then laid charges against four separate individuals for non-compliance with s. 155 notices. To be an effective enforcement agency, the ACCC must take action to counter conduct designed to obstruct our investigation processes.

Generally, compliance with the ACCC's formal information-gathering powers is satisfactory. The ACCC issued 484 notices under its powers to compulsorily acquire information (s. 155); 206 notices to provide information in writing (s. 155(1)(a)); 206 notices to provide documents (s. 155(1)(b)) and 72 notices to appear in person (s. 155(1)(c)). No authorities were issued to enter premises and inspect documents (s. 155(2)).

product safety

The ACCC places a high priority on protecting consumers from unsafe or dangerous products. Regarding the enforcement of mandatory product standards and information standards, the ACCC undertook enforcement action resulting in the withdrawal from sale and/or recall of high-lift vehicle jacks and tobacco products.

The ACCC enforcement action resulted in the withdrawal from sale and/or recall of babies' dummies, baby walkers, basketball rings and backboards, bean bags, bunk beds, children's cots, children's dart gun sets, children's nightwear, elastic luggage straps, fire extinguishers, flotation toys and swimming aids, no holes tongue studs, pedal bicycles, sunglasses and fashion spectacles, toys for children under three (including small balls/toys containing small balls) and tobacco labelling.

During 2006–07 the ACCC conducted surveys at retail outlets across Australia and on internet sites for products subject to mandatory product safety and information standards and banned goods.

Work started on the regulation impact statement process for proposed standards for prams and strollers, hot water bottles, portable cots, and lead and heavy metals in children's toys.

Warning notices were issued under s. 65B of the Trade Practices Act for the possibility of rupture of the LPG tank in motor vehicles fitted for liquid petroleum gas; the potential for serious eye injury from the incorrect use of cosmetic contact lenses; and the dangers associated with imported toothpaste containing diethylene glycol.

After ACCC recommendations, the minister introduced 18-month bans under s. 65(C)5 of the Trade Practices Act on products that had been associated with serious injury, such as Woofaz Pet Products' 3-metre retractable dog leash; and toys, novelties or similar items containing abrus precatorius toxic seeds.

We also investigated complaints about the safety of several consumer products, such as cots, baby walkers, dog leads, various toys, imported toothpaste, blankets, bicycles and air conditioners.

communicating with consumers and businesses

The ACCC continues to liaise with and inform business and consumers about the law so that they, in turn, can inform their members and customers. The ACCC's compliance, education and enforcement activities stand side by side—central to the overall goal of ensuring compliance with the Act.

In the area of small business, the ACCC's education and liaison activities focused on franchising, the new collective bargaining notification scheme and unconscionable conduct.

Our outreach network carried much of the responsibility for educating primary producers and resellers about their responsibilities under the Horticulture Code of Conduct. Industry associations have played a key role in helping the ACCC to disseminate information and draw industry issues to our attention.

Meetings of the Small Business Advisory Group and the Franchising Consultative Panel provided the ACCC with the opportunity to liaise with industry associations and other key franchising and small business stakeholders to discuss emerging issues. The ACCC hosted roundtables on retail tenancy and unconscionable conduct, provided opportunities to debate emerging issues facing these industries, and developed collaborative initiatives with consultative committee members.

The ACCC received feedback that small business and consumer audiences prefer trade practices information in a simple, easy-to-read format. In response, we developed a fact sheet series comprising 'overview' fact sheets (on specific aspects of the Act, such as bait advertising or price fixing) and 'case outcome' fact sheets (on the outcome of ACCC litigation activity or administrative proceedings). Targeted distribution campaigns ensure that case outcome fact sheets reach those businesses and consumers most likely to be affected by the outcome.

The ACCC produced and released 117 new publications for business, industry and consumers in print, electronic and multimedia formats. These initiatives included:

- > a range of information materials to help introduce two new mandatory codes: the Oilcode and the Horticulture Code
- > a review and update of information guides to the Trade Practices Act provided to business and consumers after amendments to the Trade Practices Act
- > seven new child safety alert brochures identifying high-risk products for children with advice on how to provide and maintain a safe environment when using these products
- > information campaigns targeting non-English speaking audiences (e.g. a child safety booklet in Arabic and information on the Horticulture Code in Arabic, Khmer, Punjabi, Vietnamese and Chinese).

A total of over 1.1 million hard copy published items were distributed across metropolitan, rural and regional Australia.

Commissioners and senior staff undertook 73 speaking engagements and extensive briefings, both public and private. This was complemented by 465 meetings with business and consumer groups on trade practices issues including the amendments to the Act.

Most people's initial contact with the ACCC is through the Infocentre. The Infocentre handled 68 808 inquiries and complaints via email and telephone from businesses and consumers. Of the total calls received, 1480 calls were received on the ACCC small business helpline, up from 407 in the previous financial year.

During the year, changes were made to the ACCC website to reflect new procedures for the mergers public registers and changes to notification processes. On 31 October 2006 the ACCC launched the new look www.SCAMwatch.gov.au. The SCAMwatch website operates as an ancillary to the Infocentre. It has been an invaluable tool in educating consumers and small business about scams. Fifteen SCAMwatch radar email alerted the 3000 subscribers to widespread and new scams reported to the ACCC. In its first eight months of operation the new website received over 284 897 visits, with usage growing at a steady rate. The Infocentre received 3137 emails through the SCAMwatch 'report a scam' online complaints form.

The ACCC website received 1 869 645 visits and the Australian Energy Regulator's website received 88 554 visits.

mergers

Merger activity continued to break records with many businesses seeking assessment under the ACCC's informal merger review process. The key driver behind the rise in merger assessments was the increase in general merger activity in the economy.

The ACCC has learnt from past s. 87B undertakings and continues to refine those aspects that merger parties now put before it. Effective merger undertakings quickly and fully address the relevant competition concerns but go no further than required to address the ACCC's competition concerns.

During 2006–07 the ACCC conducted 390 merger reviews for compliance with s. 50 of the Trade Practices Act. Of the 390 merger reviews undertaken, 25 were either withdrawn or were notified as no longer proceeding before a final decision was made; six were publicly opposed outright following the ACCC’s review; eight were resolved with court enforceable undertakings during their review; and five variations to undertakings were considered. Of 194 matters that were considered on a confidential basis, 11 were opposed or had concerns expressed confidentially. No formal clearance or merger authorisation applications were made.

Some of the more substantial merger transactions the ACCC examined fell within the transport logistics, energy and health sectors.

Those publicly opposed were:

- > Barloworld Limited’s proposed acquisition of Watty Limited
- > Tabcorp Holdings Limited’s proposed acquisition of UNiTAB Limited
- > Origin Energy Limited’s proposed acquisition of Sun Gas
- > Healthe Care Australia Pty Ltd’s proposed acquisition of Brisbane Waters Private Hospital from Healthscope Limited
- > Santos Limited’s proposed acquisition of Queensland Gas Company Limited
- > ThoroughVisioN and Sky Group’s proposed joint venture

Those not opposed included:

- > Transurban Group Limited’s proposed acquisition of Sydney Roads Group Limited
- > AGL Energy and TruEnergy Pty Ltd’s proposed swap of South Australian electricity generation assets
- > Pacific Magazines Pty Ltd’s proposed acquisition of certain magazine titles of Time Inc. Magazine Company Pty Ltd, IPC Media Australia Holdings Pty Ltd
- > News Limited’s proposed acquisition of certain community-style newspapers and magazines of FPC Community Media Group
- > Consortium including Macquarie Bank—proposed acquisition of Qantas Airways Ltd

Those resolved during their review by court enforceable undertakings included:

- > Alinta Limited and the Australian Gas Light Company’s joint merger/demerger proposal
- > Linde AG’s proposed acquisition of the BOC Group plc
- > ABC Learning Centres Limited’s proposed acquisition of Hutchison’s Child Care Services Limited
- > Johnson & Johnson’s proposed acquisition of Pfizer Inc.’s consumer healthcare business
- > Fairfax Media Limited’s proposed acquisition of Rural Press Limited
- > OneSteel Limited’s proposed acquisition of Smorgon Steel Group Limited

The ACCC wanted to update and make its approach to merger reviews more meaningful by providing considerable guidance to the business community on its approach to merger review. It is doing so by issuing summaries of all its public merger decisions, as well as comprehensive reasons for decisions in mergers of public interest or where decisions are likely to be considered contentious. Through this transparent approach to merger review, the ACCC has sought to increase the predictability of its merger decision making. In 2006–07 the ACCC released 25 public competition assessments.

Through its application of the *Merger review process guidelines*, the ACCC has minimised the uncertainty and risk for businesses that seek informal merger clearance by providing a fair, predictable and consistent process that is flexible in its strategies for improving market outcomes.

adjudication

The past 12 months have seen a number of interesting matters or important developments in the work of the ACCC's adjudication functions with a continued focus on assessing public interest immunity through the authorisation and exclusive dealing notification processes.

In the 2006–07 financial year the ACCC received 38 new authorisation matters. The ACCC made 36 final determinations for authorisation and received 694 notifications for exclusive dealing, most concerned third line forcing. We also issued two notices to revoke and two draft notices to revoke (relating to exclusive dealing notifications).

Of particular note was the recent decision of the Australian Competition Tribunal on the Medicines Australia authorisation application. The tribunal affirmed the ACCC decision requiring public reporting on the type and cost of hospitality provided to health professionals at educational events sponsored by pharmaceutical companies. This landmark decision reinforced an earlier ACCC decision that put hospitality sponsored by the pharmaceutical industry in the spotlight. The matter focused on rules limiting the hospitality that drug companies could offer health professionals at educational meetings and symposiums. In an attempt to increase transparency, the tribunal backed an ACCC condition requiring details of the events held and the type and cost of hospitality provided be made available to the public.

It will introduce further discipline to pharmaceutical companies on the type and extent of hospitality they provide to doctors in what should be an arms-length relationship. It will also provide patients with greater confidence and the industry with an opportunity to demonstrate their record.

Resources were also devoted to ensure the smooth implementation of the collective bargaining notification process and other legislative changes that came into operation on 1 January 2007. The take-up of the new process has been slower than expected as small businesses ensure they understand the new notification process and compare the respective advantages with an improved authorisation process for collective bargaining.

Others have chosen to take advantage of streamlined authorisation processes and the new ability to request a reduction in authorisation fees. Victorian potato growers received interim authorisation approval in one month, a final decision in two months and were the first to take advantage of the ACCC's ability to waive fees.

regulation

The links between the AER and ACCC are working very well. As the roles of other regulators are progressively assumed, the AER and the regulatory process will benefit from the consolidation of energy regulation expertise in one body, while maintaining clear synergies with the ACCC's application of general competition and consumer protection regulation to the energy sector.

The regulatory environment is constantly changing—creating new challenges for regulators. We are frequently reviewing what and how we regulate to facilitate the development of regulated infrastructure sectors and to ensure that regulation does not distort investment. We also recognise that regulatory decisions need to be timely and consistent. To reduce regulatory error there should be scope for review, therefore changes have been made to the design of economic regulation and the institutions that apply it.

In 2006–07 the Australian Competition Tribunal assessed a number of ACCC regulatory decisions. The tribunal upheld the ACCC's decisions to reject prices proposed by Optus and Vodafone respectively for mobile terminating access to their GSM networks. In another two matters, the tribunal agreed with the ACCC's decision to reject Telstra's proposals on access to ULLS and came to the same view about Telstra's LSS prices being unreasonable. These four decisions affirm the ACCC's approach to assessing access prices.

This year the High Court heard an application by East Australian Pipeline Limited for review of the Full Federal Court's judgments of 2 June 2006 and 18 August 2006 in relation to the Australian Competition Tribunal's decision of 19 May 2005 concerning the access arrangement for the covered portions of the Moomba to Sydney gas pipeline. The High Court's judgment is pending.

There has been ongoing debate about the availability and speed of broadband in Australia and whether broadband rollouts are meeting the demands of Australian consumers and business. The ACCC is involved in the government's assessment process of proposals to build a new national broadband infrastructure. A public consultation process was also started on the fibre-to-the-node network special access undertaking lodged by FANOC Pty Limited.

Extensive assessment and analysis was undertaken again this year by the ACCC to examine the effect of market conditions on the price levels of goods and services and to ensure that businesses using monopoly services pay prices that reflect efficient costs.

Some of the highlights include:

- > an arbitration under Part IIIA of an access dispute between Virgin Blue and Sydney Airport Corporation Limited
- > monitoring the retail prices of unleaded petrol, diesel and automotive LPG in the capital cities and about 110 country towns
- > monitoring E10 petrol prices and the price differential between E10 petrol and regular unleaded petrol
- > a report regarding access, exit and termination fees charged by irrigation water delivery businesses in the southern Murray–Darling Basin.

liaising with other jurisdictions and regulators

New information-sharing provisions were introduced into the Act by the *Corporations (NZ Closer Economic Relations) and Other Legislation Amendment Act 2007*. The new provisions commenced operation on 19 July 2007.

New s. 155AAA increases the number of circumstances where the ACCC is permitted to disclose information. Specifically it permits the ACCC to share protected information with an agency, such as another competition regulator, if that would enable or help them perform or exercise any of their functions or powers. The amendment will facilitate information sharing to assist in ACCC investigation processes.

The ACCC collaborated and shared information on consumer protection issues such as debt collection and scams with the Australian Securities and Investment Commission.

Collaborating with the state and territory offices of fair trading across a range of consumer protection issues facilitated enforcement and compliance measures in the areas of scams, the jewellery sector and product safety.

The new environment created by the government's media reforms—regarding both cross-media mergers and the allocation of digital TV channels—requires the ACCC and the Australian Communications and Media Authority to work much more closely with each other than they have done in the past. This closer relationship is already being put into practice at both the commission and staff levels as the two agencies begin to explore ways of enhancing their knowledge of communications infrastructure in Australia. In the near future, cross appointments will result in a commissioner of each agency becoming an associate commissioner of the other. This will cement the relationship we have enjoyed to date, which can only benefit the communications sector.

Developing and enhancing our relationship with overseas counterparts remains high on the ACCC's agenda, especially in the areas of cartel, merger and scam investigations. This financial year the ACCC co-chaired the International Competition Network cartel working group on investigative techniques and was a member of the working groups that dealt with unilateral conduct, merger notifications and procedures. These relationships are invaluable in the ACCC's constant determination to protect Australian consumers.

corporate and finance

The staff of the ACCC continued to be its great strength and I would like to thank them for their dedication, professionalism and untiring efforts throughout the year.

Jennifer McNeill concluded her five-year term as commissioner of the ACCC in July 2007. On behalf of my fellow commissioners I would like to thank Ms McNeill for her contributions and the professional manner in which she carried out her duties.

The 2006–07 budget appropriated a total of \$104.9 million for operating expenses and \$3.9 million for capital funding. This included new measures for the ongoing funding of the AER, new funding for criminal cartel enforcement, new funding for the Downstream Petroleum Reform Package (the Oilcode) and new funding for our Canberra accommodation.

The government announced in September 2006 the introduction of a prescribed code of conduct for the horticulture industry. Additional funding for 2006–07 of \$2.5 million (part of a total \$9.2 million over four years) was appropriated as part of additional estimates for this measure.

The actual number of staff employed at 30 June 2007, including all part-time and commission members (but not contractors), was 660. The ACCC recruited 38 graduates at the beginning of 2006; 37 remained with the ACCC after their induction program was completed and gained promotions.

In addition to the graduate program, the ACCC ran a successful pilot summer internship program within the AER and the Regulatory Affairs Division. Plans are underway to continue and expand this program across the entire organisation. The ACCC's learning and development strategy for the year continued to focus on providing managers and staff with structured professional development.

At this year's senior management conference a strategic assessment of the organisation was conducted. This process was assisted by input from external presenters representing the perspective of business, small business, politics and consumers. The conference outcomes will greatly assist the ACCC and the AER in their future direction and planning. As an independent statutory authority, we seek to maintain the highest standards of governance, build synergies and improve collaboration and cooperation across and between line and corporate areas of the organisation.

looking forward

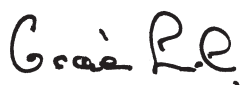
To ensure our continuing relevance to the Australian community as the national competition and consumer law enforcer and economic regulator, we need to take account of both domestic and international environments. Closer working relationships with regulatory agencies, here and abroad, will be essential to secure a greater level of compliance with the Trade Practices Act.

The ACCC will build on the work undertaken regarding its intelligence, research and analytical functions to continue to develop a proactive national model of enforcement.

The ACCC looks forward to the foreshadowed introduction of criminal sanctions for serious cartel conduct and is awaiting the outcome of the current Productivity Commission review of the consumer protection provisions of the Act. Enforcement of the consumer provisions of the Act will remain a high priority of the ACCC, particularly in emerging markets and in the area of product safety.

The experience we have gained through regulating key infrastructure sectors will help to guide us as we move into new areas. We will continue to review the need to regulate those evolving sectors that raise questions about the nature and durability of the 'bottleneck' facility.

While the Act is mature, it remains dynamic. The continued review and updating of the Trade Practices Act reflects that it is a major piece of economic and consumer law essential to fostering a competitive market and enhancing the welfare of all Australians.



Graeme Samuel
Chairman

who we are

Australian Competition and Consumer Commission

chairman	Graeme Samuel AO
deputy chair	Louise Sylvan
commissioners	Stephen King, John Martin, David Smith, Edward Willett, Jennifer McNeill
chief executive officer	Brian Cassidy

enforcement and compliance division

executive general manager	Mark Pearson
general managers	Nigel Ridgway, compliance strategies branch Rose Webb, enforcement and coordination branch Michael Carnahan, information, research and analysis branch
regional directors	Geoff Williams, New South Wales Bob Weymouth, Victoria Alan Ducret, Queensland Kim McBey, North Queensland Sam Di Scerni, Western Australia George Kamencak, South Australia Peter Clemes, Tasmania Derek Farrell, Northern Territory

regulatory affairs division

executive general manager	Joe Dimasi
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communications group

group general manager	Michael Cosgrave
general managers	Robert Wright, compliance and regulatory operations branch Richard Home, strategic analysis and development branch

regulatory development branch

general manager	Anne Plympton
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transport and prices oversight branch

general manager	Margaret Arblaster
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office of the AER

group general manager	Michelle Groves
general managers	Sebastian Roberts, markets branch Mike Buckley, network regulation north branch Chris Pattas, network regulation south branch

adjudication branch

general manager	Scott Gregson
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mergers and asset sales branch

general manager	Tim Grimwade
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corporate branch

general manager	Helen Lu
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finance and services branch

chief finance officer	Adrian Brocklehurst
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legal group

executive general manager	Margaret Micallef
general counsel	Robert Alexander, trade practices litigation unit
general manager	Bruce Cooper, corporate and regulatory law unit

media relations unit

director	Lin Enright
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Australian Energy Regulator

chairman	Steve Edwell
member	Geoff Swier
member	Edward Willett

what we do

The Australian Competition and Consumer Commission is an independent statutory authority, set up in 1995 as part of the national competition policy reform program. It is the only national agency dealing with competition matters.

The primary responsibility of the ACCC is to ensure that individuals and businesses comply with competition, fair trading and consumer protection laws, in particular the *Trade Practices Act 1974*.

The ACCC applies these laws without fear or favour, helping to make sure that competition in the marketplace is efficient and fair.

As an integral part of its work the ACCC:

- > promotes effective competition and informed markets
- > encourages fair trading and protects consumers
- > regulates infrastructure service markets and other markets where competition is restricted.

promoting effective competition and informed markets

prevent price fixing, market sharing, bid rigging and boycotts

prevent the misuse of market power, anti-competitive exclusive dealing and resale price maintenance

assess mergers, asset sales and joint ventures

authorise anti-competitive conduct in the public interest

assess export agreements

ensure compliance by the professions

assess certification trademarks

improve compliance through education and information

maintain public and confidential information registers

encouraging fair trading and protecting consumers

prevent misleading and deceptive conduct and misrepresentation

ensure products comply with mandatory safety standards and advise government on product recalls, bans and warning notices

improve business and consumers' understanding of their rights and obligations

support the ability of small business to trade with larger firms in a fair environment

regulating infrastructure service markets and other markets where competition is restricted

promote competition in the network industries: energy markets, communications, aviation and airports, waterfront and shipping, rail and post

- > energy markets (current and future roles)
 - > monitoring compliance and investigating and prosecuting breaches by registered participants and other persons with the National Electricity Law (NEL), National Electricity Rules (NER) and the regulations
 - > monitoring the wholesale electricity market
 - > economic regulation of electricity transmission and distribution (except in Western Australia and the Northern Territory)
 - > economic regulation of gas transmission and distribution (except in Western Australia)
- > communications (telecommunications carriage services and the content and applications delivered by them)
 - > examine the competition implications of converging technologies
 - > maintain competitive and consumer safeguards across the industry
 - > determine which services should be subject to access regulation
 - > consider access undertakings and arbitrate disputes between industry members
- > aviation and airports
 - > assess proposals for price increases for air traffic control services by Airservices Australia
 - > monitor prices and quality of service, and administer financial reporting requirements for major private airports
- > waterfront and shipping
 - > monitor stevedoring prices and administer liner cargo shipping arrangements
- > rail
 - > ensure access to interstate rail track
 - > cap freight rail prices
- > post
 - > approve changes to charges of postal services operated exclusively by Australia Post
- > petrol prices
 - > monitor the prices of petrol, diesel and liquefied petroleum gas
- > insurance
 - > check costs and premiums in the public liability and professional indemnity sectors of the insurance market, monitor medical indemnity premiums and bank fees and charges

consultation and liaison

The ACCC convenes several committees with external stakeholders. These formal consultative mechanisms focus on specific sectors of the economy or areas of regulation. As well as being successful and inclusive forums for industry discussion, they provide accountability and transparency to the ACCC's decision-making.

This year consultative committee members have played a key role in assisting the ACCC in disseminating information for its education and information programs, as well as drawing industry and emerging trade practices issues to our attention.

Due to the diverse range of issues covered by the ACCC and the diversity of interest of committee members, it was decided to disband the **overarching** consultative committee. There are now six specialised consultative committees covering the areas of consumers, small business, franchising, health, infrastructure and energy. The ACCC also convened the Utility Regulators Forum.

The ACCC keeps consultative committee members updated on a quarterly basis through the publication of the *Recent activities report*.

In addition to these specialised consultative committees the ACCC also has bilateral meetings with various groups and industry associations on matters of particular interest to them.

For details of committee membership and functions, see appendix 6 of this report.

what we don't do

The ACCC deals with competition and consumer protection matters of national and international significance and therefore does not:

- > pursue issues such as the pricing of particular goods or services, warranties and refunds that are more effectively dealt with at local or state level
- > mediate disputes between individuals and the suppliers of goods and services
- > advise whether a company or individual is honest
- > approve individual business conduct
- > disclose the number or nature of complaints received about a company or individual
- > give legal advice
- > settle employment disputes
- > register business names

The ACCC also does not handle complaints about misleading or deceptive conduct in financial transactions. The Australian Securities and Investments Commission (ASIC) has this responsibility.

AER

The Australian Energy Regulator is an independent statutory authority and a constituent part of the ACCC. It is made up of one Commonwealth member and two state/territory members. They are appointed by the Governor-General for terms of up to five years, and one of them is appointed as chair of the AER.

The AER is responsible for the economic regulation of Australian energy markets and compliance with the electricity and gas rules at a national level.

the law

The Trade Practices Act promotes competition and fair trading and provides for consumer protection to enhance the welfare of Australians.

effective competition and informed markets

parts of the Trade Practices Act dealing with competition

IV	anti-competitive conduct: price fixing, market sharing, boycotts, agreements substantially lessening competition, misuse of market power, exclusive dealing, resale price maintenance, mergers substantially lessening competition
VII	authorisations and notifications
XIA	the competition code

enforcement

The ACCC is the only government agency that deals with anti-competitive conduct—which is illegal for all businesses in Australia. It conducts merger and acquisition analysis. To enforce the provisions of the Trade Practices Act the ACCC can seek:

- > declarations of contraventions
- > findings of facts
- > injunctions
- > damages
- > community service orders
- > probation orders
- > banning orders
- > adverse publicity orders
- > corrective advertising, public notices and disclosure for breaches of anti-competitive conduct
- > pecuniary penalties of up to \$10 million, three times the value of the illegal benefit or 10 per cent of corporate group annual turnover (whichever is the greater) for companies and \$500 000 for individuals

fair trading and consumer protection

parts of the Trade Practices Act dealing with fair trading and consumer protection

IVA	unconscionable conduct in commercial and consumer transactions
IVB	industry codes of conduct: the franchising, horticulture and oil codes of conduct are mandatory codes prescribed under Part IVB
V	unfair practices, misleading and deceptive conduct, pyramid selling, country of origin representations, product safety and information, conditions and warranties in consumer transactions
VA	liability of manufacturers and importers for defective goods
VC	criminal conduct in fair trading and consumer protection

enforcement

State legislation largely mirrors parts of the fair trading and consumer protection provisions of the Trade Practices Act. To enforce the provisions of the Trade Practices Act the ACCC can seek:

- > declarations of contraventions
- > findings of facts
- > injunctions
- > damages
- > community service orders
- > probation orders
- > adverse publicity orders
- > corrective advertising, public notices and disclosure

for criminal breaches of fair trading and consumer protection:

- > fines of up to \$1.1 million for companies and \$220 000 for individuals may apply

infrastructure service markets

parts of the Trade Practices Act dealing with regulated industries and prices surveillance

IIIA	access to the services of essential national infrastructure facilities, such as access to transmission wires networks, natural gas pipelines, rail tracks and airport facilities
VIIA	price monitoring and surveillance in relation to industries or businesses declared by the Australian Government
X	establishes limited exemptions in relation to international liner cargo shipping
XIB	anti-competitive conduct in telecommunications
XIC	access to services for telecommunications

regulation

The regulatory functions of the ACCC and the AER include regulating the electricity, gas, telecommunications and transport sectors to ensure equality of access to infrastructure; and monitoring of services and prices.

Since 1 July 2005 the AER has had direct responsibility for the regulation of revenues in the electricity transmission networks. Responsibility for regulating gas transmission networks will also be transferred from the ACCC to the AER in 2007–08.

The AER will also eventually have responsibility for the retail and distribution networks in the energy sector and these functions are also expected to transfer to the AER in 2007–08. The AER was established under the Trade Practices Act as a separate legal entity within the ACCC.

part two
performance



achieving outcome one

enhancing social and economic welfare of the Australian community by fostering competitive, efficient, fair and informed Australian markets

Australian Competition and Consumer Commission

overall outcome

To bring about greater competitiveness in every sector of the economy

outcome one

To enhance the social and economic welfare of the Australian community by fostering competitive, efficient, fair and informed Australian markets



output group 1.1

output 1.1.1

Compliance with competition, fair trading and consumer protection laws and appropriate remedies when the law is not followed

output 1.1.2

Competitive market structures and informed behaviour

To achieve outcome one through appropriate outputs the ACCC seeks to:

- > promote effective competition and informed markets
- > encourage fair trading and protect consumers
- > regulate infrastructure service markets and other markets where competition is restricted

how we do it

outcome one:

to enhance the social and economic welfare of the Australian community by fostering competitive, efficient, fair and informed markets

financial results

The ACCC's financial statements, both administered and departmental, are in part four of this report. The outcome summary in this part of the report contains a resource summary of the price for the ACCC's two outputs.

resource table

	output 1.1.1			output 1.1.2			output group 1.1		
	compliance with competition, fair trading and consumer protection laws			competitive market structures and informed behaviour					
	2005-06	2006-07	2007-08	2005-06	2006-07	2007-08	2005-06	2006-07	2007-08
budget \$'000	56 627	67 598	68 705	33 167	39 920	45 100	89 794	107 518	113 805
additional revenue \$'000	760	232	345	636	267	230	1 396	499	575
revenue from gains \$'000	56	62		38	26		94	88	
total revenue \$'000	57 443	67 892	69 050	33 841	40 213	45 330	91 284	108 105	114 380
actual expenditure \$'000	52 955	64 747		31 213	38 323		84 168	103 070	
net surplus \$'000	4 488	3 145		2 628	1 890		7 116	5 035	

average staffing levels

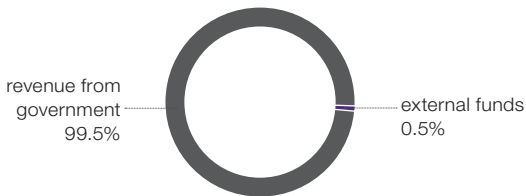
(portfolio budget statements/portfolio additional estimates statements)

	total
2005-06	533
2006-07	588
2007-08	606

revenue

The main source of revenue for the ACCC is government appropriation with a small proportion of departmental revenue. In 2006–07 the ACCC had total revenue of \$108.1 million, with \$107.5 million being appropriation funding and the remaining \$0.6 million being external funds (refer to figure below). This compares to the previous year's external revenue of \$1.4 million.

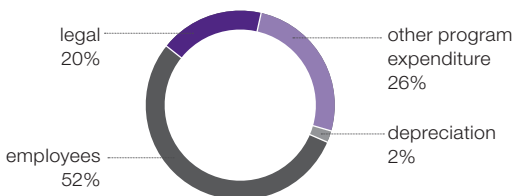
figure 1 ACCC revenue 2006–07



expenditure

The ACCC is a knowledge-based organisation and as such spends approximately 52 per cent of total expenditure on employee costs. This is a slight decrease from 57 per cent in 2005–06. Other program expenditure is the second largest expenditure category at 26 per cent, unchanged from the previous year. Legal expenditure is subject to volatility depending on the timing and outcome of litigation proceedings. This has resulted in an increase in the legal expenditure proportion from 16 per cent in 2005–06 to 20 per cent in 2006–07. The depreciation proportion has remained unchanged from last year at 2 per cent of total expenditure.

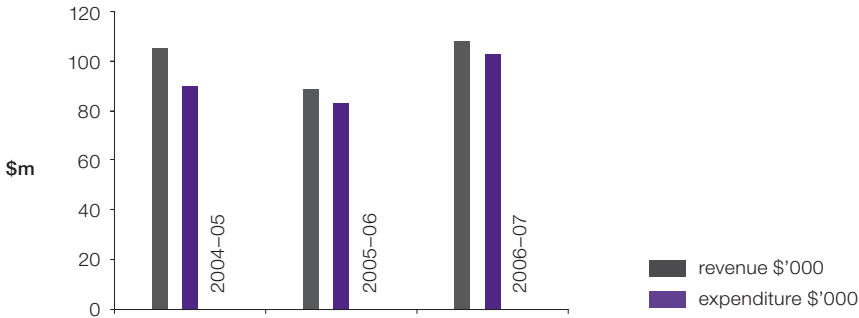
figure 2 ACCC expenditure 2006–07



operating statement

The ACCC operating result for 2006–07 was a \$5.0 million surplus. The surplus was largely generated by the deferral of expenditures due to delays in the passage of legislation.

figure 3 ACCC revenues and expenditure 2006–07



balance sheet

The ACCC's net assets as at 30 June 2007 was \$44.1 million (up from \$35.1 million in 2006). Total assets increased by \$15.1 million to \$64.1 million. The increase was largely driven by the increase in appropriation receivable due to lower than expected expenditure and an equity injection to fund the Canberra office fit-out. This has further improved the liquidity of the ACCC.

administered revenue

Revenues administered on behalf of the government during 2006–07 amounted to \$23.4 million, which is an increase of 11 per cent from last year (2005–06: \$21.1 million). This amount includes court-imposed fines and costs for the following cases: Woolworths Ltd, Jurlique International, Fila Sports, Leahy Petroleum and Barton's Mines Corporation.

administered expenditure

Expenses administered on behalf of the government increased in 2006–07 by \$1.3 million to \$5.4 million (2005–06: \$4.1 million), as a result of the increased write-off of debts not recoverable.

enforcement and compliance

**promoting effective competition and informed markets
encouraging fair trading and consumer protection**

The Enforcement and Compliance Division's core business is to ensure compliance with the Trade Practices Act. We do this by promoting competition and informed markets, encouraging fair trading and protecting consumers. The enforcement function, including litigation, remains the cornerstone of the division, well supported by its liaison, analysis, outreach and compliance arms.

In undertaking our enforcement activity the division remains committed to conduct its work in a timely, professional and determined manner. We manage our enforcement processes to achieve effective outcomes and use of ACCC resources.

Our commitment to strong liaison, outreach and advocacy programs continues as evidenced in the wide range of activities undertaken. The division has developed a strong intelligence and analytical capability by establishing the Information, Research and Analysis Branch. The branch is assisting the division to identify and address conduct that causes major competition and consumer harm.

The ACCC has continued this year with its strong litigation stance as seen by the increasing number of cases filed and significant penalties awarded for parts IV and V conduct. We also pursued instances of resale price maintenance in the Australian economy, including cases in the areas of new and emerging consumer electronic goods and some more established markets.

The Federal Court of Australia has reinforced the seriousness of this conduct by imposing record penalties totalling \$3.4 million against Jurlique Pty Ltd & ors. Other resale price maintenance cases concluded during the year dealt with conduct affecting premium kitchenware, power tools and digital set-top boxes.

During the year the ACCC successfully reinforced the seriousness of price fixing and market sharing, concluding litigation affecting the grocery sector, timber supplies, cardiothoracic surgeons, sporting goods and garnet supply.

The ACCC was also active in relation to secondary boycotts. Action against the CFMEU in Western Australia was concluded with penalties of \$100 000 imposed. Other cases are under way against the CFMEU for conduct in the Canberra construction industry and against the CEPU which has appealed against the Federal Court decision to impose a penalty of \$125 000.

As foreshadowed in public announcements during the course of the years the ACCC undertook criminal prosecutions in cases where the breaches of the consumer protection provisions were particularly egregious. Priority was also given to those instances where the ACCC was concerned that parties were obstructing its investigation processes. Charges were laid against four people for non-compliance with s. 155 notices.

The Enforcement and Compliance Division also continued its strong commitment to educational, compliance and liaison activities. During the year industry associations played a key role in helping to disseminate information and draw industry issues to our attention.

The ACCC has settled into its expanded product safety role and has been active in enforcement, monitoring and standard setting. We have brought a number of actions in areas as diverse as vehicle jacks, toys, bicycles, sunglasses and novelty items. We continue to run an active testing program and are increasingly acting with the support of our state, territory and international counterparts.

Developing our relationship with our overseas counterparts remains important, especially in the area of cartel investigations. The division represented the ACCC as co-chair of the ICN cartel working group and as a member of the unilateral conduct working group. We also undertook a wide range of capacity building projects in conjunction with the OECD and AusAID. Special focus was given to working with our neighbours, such as Indonesia, and we will continue to provide support for countries in our region with emerging competition authorities.

To ensure our relevance to the Australian community we will continue to work on our market intelligence, bringing to the division a proactive national model of enforcement and rigorously assessing proposed approaches to non-compliance.

Mark Pearson, executive general manager, enforcement and compliance division

communicating with businesses and consumers

output 1.1.1

compliance with competition, fair trading and consumer protection laws and appropriate remedies when the law is not followed

this year the ACCC

performance indicator

publicise litigation and education activities

- > issued 378 media releases—of these, 82 explained the institution and/or outcome of specific enforcement activities, 15 related to product safety issues, including educational material
- > undertook 173 speaking engagements and extensive briefings, both private and public, by the chairman, commissioners and senior staff
- > produced 93 consumer and small business articles for external publications

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

liaise with and inform business and consumers about the law so that they can, in turn, inform their members and customers

- > held 485 meetings with business and consumer groups on Trade Practices Act issues, including consumer and small business education and proposed amendments to the Act
- > delivered 86 presentations (many in rural and regional areas) on business issues and scams at events such as the Australian Chamber of Commerce and Industry Small Business Coalition annual meeting, the Council of Small Business Organisations Association annual summit and the Victorian Business Law Society Small Business Working Party session
- > attended the minister's Small Business Forum
- > attended 43 expos, field days and workshops, providing participants with information on the ACCC and the Trade Practices Act
- > continued the ACCC's disadvantaged and vulnerable consumer program, designed to ensure that the special needs of these groups are identified and addressed
- > provided regular contributions to the Consumer Telecommunications Network (CTN) bulletins and to each Consumer Federation of Australia (CFA) quarterly newsletter, including details of completed consumer-related enforcement activity and education and information programs
- > responded to 505 email inquiries about product safety and product recalls (in addition to those answered by the ACCC Infocentre)
- > provided the Insolvency Practitioners Association of Australia with the ACCC's view on the application of the Franchising Code of Conduct to company administrators in the event of voluntary or court-ordered administration
- > assisted the Real Estate Institute of Australia to develop initiatives to educate real estate agents about the risk of breaching the Trade Practices Act if they engage in activities that exploit market conditions—e.g. where prospective tenants place competing offers for vacant premises
- > continued to update and implement the Franchising Awareness Strategy, focusing (in collaboration with sector representatives and organisations) on encouraging prospective franchisees and small business owners to exercise due diligence

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

liaise with and inform business and consumers about the law so that they can, in turn, inform their members and customers

- > continued to work with fruit and vegetable growers to help ensure competition in the industry
- > hosted 2 meetings of the Small Business Advisory Group and the Franchising Consultative Panel and held roundtable discussions on unconscionable conduct in business transactions and on retail tenancy
- > hosted 3 meetings of the Consumer Consultative Committee
- > held the inaugural meeting of the ACCC Health Sector Consultative Committee

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

issue publications and media releases, speak to the public, conduct public meetings and conferences and use the latest technology to reach business and consumers throughout Australia

- > produced 117 new publications; distributed in total 1 104 457 copies of publications; produced DVDs, videos and CDs on compliance issues
- > issued 378 media releases; 173 speeches delivered by commissioners and senior staff
- > distributed over 300 000 flyers, 2500 posters and 2000 identity theft kits as part of the ACCC's involvement in the Australasian Consumer Fraud Taskforce (ACFT) Scams Awareness Month
- > attended and presented at the National Consumer Congress in March 2007
- > used regional radio networks across Australia to promote a number of trade practices messages to businesses and consumers in rural Australia—topics covered included warranty and refund rights and obligations, the newly introduced mandatory product safety standard for babies dummies and new ACCC franchising publications
- > developed educational DVDs on two newly introduced mandatory codes of conduct—the Oilcode and the Horticulture Code of Conduct
- > conducted a direct mail safety campaign as a follow-up to the December 2006 warning notice for motor vehicles fitted with liquid petroleum gas (LPG) tanks; wrote to approximately 2400 licensed gas fitters throughout Australia, advising them of potential hazards associated with affected LPG tanks and seeking their cooperation in replacing problem pressure relief valves
- > launched the ACCC's new look SCAMwatch website (www.scamwatch.gov.au) in October 2006, designed to educate and assist consumers about scams, the steps they can take to protect themselves and how to report scams
 - > received over 250 000 visits to the new SCAMwatch site in its first 8 months, with usage growing at a steady rate
 - > sent 15 SCAMwatch radar email alerts to subscribers (currently around 3000) to highlight widespread or novel scams reported to SCAMwatch
 - > continued to operate the SCAMwatch website as the online portal for the annual ACFT scam awareness campaign in March 2007

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

issue publications and media releases, speak to the public, conduct public meetings and conferences and use the latest technology to reach business and consumers throughout Australia

- > continued to maintain the consumers online website (www.consumersonline.gov.au) as a portal for consumer information
- > produced a product safety fact sheet on mandatory safety requirements for caravan jacks for publication by the Recreational Vehicle Manufacturers Association of Australia and for wider distribution
- > created *TPA matters for small business*, a CD compilation of all ACCC small business publications and a range of relevant web links, to provide a single source of trade practices information to small businesses
- > continued to deliver and maintain the product safety recalls website (www.recalls.gov.au), which provides consumers and state and territory regulators with up-to-date information on all Australian safety-related recalls; in 2006–07, 761 recalls were entered on the database and 249 general consumer product recalls were monitored and assessed; the ACCC product safety team also responded to 505 email inquiries about product safety and product recalls (in addition to those answered by the ACCC Infocentre)

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

work with other competition, fair trading and consumer protection agencies in Australia and overseas

- > worked closely with the Office of Small Business and AusIndustry field officers to educate small business about the collective bargaining notification regime introduced by the Dawson amendments to the Trade Practices Act in late 2006
- > is a member of the National Indigenous Consumer Strategy (NICS) reference group, which has provided its first annual report to the Standing Committee of Officials on Consumer Affairs (SCOCA) and to the Ministerial Council on Consumer Affairs (MCCA) on the implementation of the NICS action plan, *Taking action gaining trust*; this action plan identifies specific actions to be taken by participating agencies under eight key national priorities
- > made solid progress towards priorities two (advocacy) and six (trading practice) of NICS action plan, and has developed a work program that will focus future activity on priorities one (Indigenous employment) and seven (Indigenous art) in 2007
- > developed an Indigenous employment plan that includes strategies targeted at increasing the number of Indigenous project officers as part of the ACCC's progress towards the NICS action plan
- > was the secretariat for, and chair of, the ACFT, representing federal, state and territory government consumer protection and related agencies—the ACFT works to prevent consumer scams and fraud; Scam Awareness Month (March 2007), a key focus of ACFT activity, coincided with the international Fraud Prevention Month and was coordinated by the International Consumer Protection Enforcement Network (ICPN)
- > attended 2 meetings of the MCCA and 3 meetings of SCOCA, and contributed to 7 SCOCA working parties on matters such as industry codes, property investment advisers, false billing and Indigenous consumer strategies
- > attended and chaired 2 meetings and 8 teleconferences of the Consumer Product Advisory Committee (CPAC)
- > attended and chaired 2 meetings and 8 teleconferences of the Fair Trading Officers Advisory Committee (FTOAC)
- > attended 3 meetings of the Therapeutic Goods Advertising Code Council (TGACC)

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

work with other competition, fair trading and consumer protection agencies in Australia and overseas

- > is an active member of ICPEN; the ACCC was a central member of the review of ICPEN's memorandum of understanding, the organisation's operational framework
- > has regular liaison with a number of international competition and consumer protection authorities to coordinate activities and cooperate with respect to enforcement activities
- > continues to coordinate the annual ICPEN internet sweep; the sweep day previously coincided with International Consumer Awareness Month (February), but has been moved and will now be held in September each year
- > co-chaired the International Competition Network (ICN) cartels sub-group, which is responsible for enforcement techniques; led the development of the best practice chapter for 'Cartel case initiation' for the ICN cartels work manual on enforcement techniques; and made strong contributions to the ICN cartels workshop, with a number of ACCC representatives participating as panellists during the workshop
- > is a member of the ICN's 2 merger sub-groups and attended the ICN mergers workshop
- > was also a member of the ICN unilateral conduct working party
- > was a member of an OECD competition committee working party, which developed a workshop on the interaction between competition authorities and public prosecutors
- > received 65 requests for information from 21 countries and made 54 requests to 14 countries
- > conducted staff exchanges with New Zealand, the United Kingdom and Chinese Taipei

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator

Develop and administer industry specific codes of conduct

Two new mandatory codes of conduct commenced in 2006–07, the Oilcode and the Horticulture Code of Conduct. The ACCC is responsible for promoting compliance with these mandatory codes. To achieve industry compliance with these codes the ACCC's compliance strategy includes educating industry participants about the rights and obligations imposed by these codes, liaising with industry stakeholders and taking enforcement action where necessary.

The Horticulture Code of Conduct

- > The Horticulture Code commenced on 14 May 2007 and aims to regulate the conduct of growers and traders when trading in horticulture produce. The ACCC:
 - > provided technical assistance to the Department of Agriculture, Fisheries and Forestry regarding the development and implementation of the prescribed code
 - > gave 119 presentations nationally to industry stakeholders about their rights and obligations under the code
 - > published and distributed 35 282 copies of code publications to stakeholders in the horticulture industry outlining growers and traders' compliance obligations under the code; 14 Horticulture Code compliance articles were published in peak industry journals
 - > developed a code information network—currently with 387 subscribers, including peak industry associations and other stakeholders—who receive regular ACCC Horticulture Code compliance-related information

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

The Oilcode

- > The Oilcode commenced on 1 March 2007 and regulates the conduct of suppliers, distributors and retailers in the downstream petroleum retail industry. The ACCC:
 - > provided technical assistance to the Department of Industry Tourism and Resources regarding the development and implementation of the prescribed Oilcode
 - > liaised nationally with state governments and industry stakeholders regarding the rights and obligations of stakeholders under the Oilcode
 - > published and distributed 4823 copies of Oilcode—publications to stakeholders in the downstream petroleum industry; 5 Oilcode compliance articles have been published in peak industry journals
 - > developed an Oilcode information network—currently 139 subscribers, including peak industry associations and other stakeholders—who receive regular ACCC Oilcode compliance-related information

- > *Activity relating to non-mandatory codes*
 - > provided technical assistance to 18 industry bodies engaged in developing and reviewing voluntary industry codes of conduct
 - > provided comments on 8 reviews of telecommunications industry and consumer codes in fulfilment of the ACCC's regulatory responsibilities
 - > provided comments on the draft Telecommunications Consumer Protection Code, currently under development by the Communications Alliance
 - > provided comments to the Australian Communications and Media Authority (ACMA) on amendments to the rules governing the provision of mobile premium services
 - > provided comments on the review of the Electronic Funds Transfer Code of Conduct, being undertaken by the ASIC

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

assist parliamentary inquiries and government agencies to develop policies and processes that are consistent with the competition, fair trading and consumer protection laws

- > made a submission to the Productivity Commission's review of Australia's consumer protection framework
- > provided written submissions, oral evidence and other materials to the Senate inquiry into Australia's Indigenous visual arts and craft sector
- > made a submission to the House of Representatives inquiry into Older People and the Law and appeared at a public hearing
- > provided a submission to the Allen Consulting Group in its review of the Telecommunications Industry Ombudsman scheme
- > provided the Franchising Code of Conduct Review Committee with the ACCC submission on Part 2—Disclosure, and actively assisted with the review process
- > participated in the interdepartmental committee formed to coordinate Australian Government strategies to address issues in the Indigenous visual arts industry, and convened by the Department of Communication, Information Technology and the Arts (DCITA)
- > provided comments to ACMA on the development of an industry standard for the making of telemarketing calls, which supported the establishment of the national Do Not Call Register
- > provided comment on the draft Indigenous intellectual property toolkit, a project funded by the Cultural Ministers Council (CMC) and managed by the West—Australian Department of Culture and the Arts (DCA), to address Indigenous intellectual property issues
- > commenced the regulation impact statement process for proposed product safety standards for prams and strollers, hot water bottles, portable cots and lead and heavy metals in children's toys.
- > commenced or continued the preparation of regulation impact statements relating to the review of mandatory product safety or information standards covering bean bags, bicycle helmets, cosmetics ingredient labelling, flotation toys and swimming aids, trolley jacks and vehicle support stands
- > completed regulation impact statements that resulted in an updated safety standard for motor vehicle child restraints, a revised mandatory standard for children's nightwear and paper patterns for children's nightwear and a new mandatory safety standard for babies dummies

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

assist parliamentary inquiries and government agencies to develop policies and processes that are consistent with the competition, fair trading and consumer protection laws

- > contributed to government amendments to the Trade Practices (Consumer Product Information Standards) (Tobacco) Regulations concerning new graphic warnings for tobacco products
- > drafted warning notices under s. 65B of the Trade Practices Act on: the dangers associated with abras precatorius toxic seeds contained in a 'Message in a Bottle' glass container (December 2006), the possibility of rupture of the LPG tank in motor vehicles fitted with liquid petroleum gas (December 2006); the potential for serious eye injury from the incorrect use of cosmetic contact lenses (February 2007); and the dangers associated with imported toothpaste containing diethylene glycol (DEG) (June 2007)
- > introduced 18-month bans under s. 65(C)5 of the Trade Practices Act on the following products which had been associated with serious injury: 'Woofaz Pet Products' 3-metre retractable dog leash and toys, novelties or similar items containing abras precatorius toxic seeds
- > investigated complaints about the safety of several consumer products including cots, baby walkers, dog leads, various toys, imported toothpaste, blankets, bicycles and air conditioners
- > provided the Australian Senate with the ACCC's eighth report on *Anti-competitive and other practices by health funds and providers in relation to private health insurance*
- > participated from June 2006 to April 2007 in the food labelling strategies high level working group chaired by the Hon. Peter McGauran, Minister for Agriculture, Fisheries and Forestry; the labelling scheme to promote Australian grown produce to the consumer was officially launched by the minister on 1 June 2007—the 'Australian Grown' logo is administered by the Australian Made Campaign Limited
- > contributed as a member of the Standing Committee of Officials of Consumer Affairs (SCOCA) working party on the need for civil pecuniary penalties for contraventions of Australia's consumer protection laws

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

liaise with other regulators, business and consumer associations, speak to the public, participate in meetings and conferences, nationally and internationally

- > collaborated and shared information on consumer protection and other common interests and held quarterly liaison meetings with ASIC
- > participated in 4 regulator's roundtable meetings with representatives from the Australian Communication and Media Authority (ACMA) and the Telecommunications Industry Ombudsman (TIO) focusing on consumer issues specific to the telecommunications industry and the development of coordinated mechanisms to address them
- > participated in 4 meetings of the Consumer Interest Reference Panel of the Communications Alliance to discuss consumer issues in the telecommunications industry
- > presented at the June meeting of the Public Relations Advisory Council (PRAC) to inform ombudsman schemes of the ACCC's role in the National Indigenous Consumer Strategy
- > participated in the TIO Digital Subscriber Line Access Multiplexer (DSLAM) forum to discuss consumer issues arising from the mass-migration of telecommunications services to new DSLAM networks
- > provided strategic advice as part of the steering committee of the Indigenous Consumer Assistance Network (ICAN), an organisation based in Cairns that provides consumer education, advocacy and assistance services to Indigenous consumers across the nation
- > participated in Standards Australia committee meetings and contributed significantly to reviews of Australian/ New Zealand standards for babies dummies, bunk beds, children's cots, fire extinguishers, motorcycle helmets, nursery furniture, toys for children under 3 and vehicle jacks
- > liaised with Kidsafe, the Australian Consumers Association, the Australian Toy Association and the Infants and Nursery Products Association of Australia on current or proposed mandatory safety and information standards and other product safety matters
- > fostered the development of and provided a regulatory perspective on a 12-month trial of the Product Safety Framework for nursery furniture—this is a joint initiative of Standards Australia and the Infants and Nursery Products Association of Australia to develop a framework for a horizontal standards approach to hazard identification, risk assessment and risk management in nursery furniture design

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

liaise with other regulators, business and consumer associations, speak to the public, participate in meetings and conferences, nationally and internationally

- > attended and addressed the first Asian conference of the International Consumer Product Safety and Health Organisation (ICPHSO), the International Consumer Product Safety Caucus (ICPSC) and the Asia-Pacific Economic Cooperation (APEC) market surveillance workshop; attended the National Consumer Congress and the Queensland Safe Communities Conference
- > liaised with overseas government product safety authorities, including New Zealand authorities and the United States Consumer Product Safety Commission on product safety issues
- > participated in 27 international events such as International Bar Association conferences, meetings with international regulators, international energy and telecommunications conferences and various competition and consumer protection forums including OECD, ICPEN and ICN
- > liaised with the Australian Government Department of Health and Ageing (DoHA) and the national Quit network regarding the ACCC's 'light' and 'mild' cigarettes consumer awareness campaign
- > provided ongoing assistance on trade practices issues to Food Standards Australia New Zealand (FSANZ), particularly in relation to the development of FSANZ publications on country of origin labelling and food; attended quarterly meetings of the Commonwealth Food Regulatory Officials Group organised by the Food Regulation Secretariat Department of Health and Ageing
- > in conjunction with the Commonwealth Director of Public Prosecutions developed and participated in an OECD workshop between competition authorities and public prosecutors
- > held a joint meeting at commissioner level with the New Zealand Commerce Commission to discuss key issues of operation between the two organisations

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

help overseas trading partners to develop and implement effective competition regimes to benefit Australian industry

- > continued with an AusAID-funded program for the Independent Consumer and Competition Commission (ICCC) in Papua New Guinea (PNG), assessing ICCC infrastructure and preparation of tender specifications to introduce a computer-based records management system within the ICCC
- > provided capacity building assistance to officials from: China, Chinese Taipei, Hong Kong, Indonesia, Malaysia, Mongolia, Papua New Guinea, Philippines, Singapore, Thailand and Vietnam
- > contributed as a member of APEC Competition Policy Deregulation Group to APEC's promotion of competition principles among APEC member economies
- > as a regular contributor to a Joint Regional Centre on Competition operated by the OECD and the Korean Fair Trade Commission, the ACCC has sent various staff to deliver capacity building seminars on mergers, cartels and abuse of dominance investigations
- > hosted study visits by officials from Bangladesh, Chile, China, Egypt, Indonesia, France, Japan, Malaysia, New Zealand, South Africa, South Korea, Singapore, Thailand, United Kingdom, United States of America and Vietnam
- > attended free trade agreement negotiation rounds between Australia and the Gulf Cooperation Council, NZ/ASEAN countries, Malaysia and China, including the delivery of presentations on competition policy and the ACCC's role as a national regulator
- > the ACCC has assisted in the preparation of material for feasibility studies for free trade agreements with Japan and Chile
- > presented to a group of Chinese officials on Australia's competition regime regarding Australia's free trade agreement negotiations with China

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

liaison activities

- > continued as secretariat for the TPA Consumer Trust, established by the ACCC to disburse money arising from enforcement outcomes for research on consumer issues of relevance to the Act
- > the ACCC **Consumer Consultative Committee** met in July and November 2006 and March 2007—key consumer stakeholders in Australia provide feedback on current consumer issues and the ACCC provides information on its consumer protection activities, and works together with consumer groups to address issues raised at the meetings

- > meetings of the **Small Business Advisory Group** (November 2006 and May 2007) and the **Franchising Consultative Panel** (October 2006 and April 2007) provided the ACCC with the opportunity to liaise with industry associations and other key franchising and small business stakeholders to discuss emerging issues and work towards a collaborative approach to address them
- > roundtables on retail tenancy (October 2006) and unconscionable conduct (May 2007) also provided the ACCC with the opportunity to liaise with key stakeholders and discuss emerging issues and develop collaborative initiatives
- > the **Health Sector Consultative Committee** is the ACCC's newest consultative mechanism; members represent a broad range of the health sector, including private health insurers, hospitals, medical colleges and ancillary providers; the first meeting of the committee was held in May 2007

publications and reports

The ACCC developed and launched a number of new publications in electronic, paper and DVD formats in 2006–07. These included:

- > *FairStore*—a fair trading guide for owners and managers of stores serving Indigenous communities in rural and remote areas of Australia to help them comply with fair trading and other relevant laws and encourage higher trading standards
- > *FairStore* (consumer flyer)—an accompanying guide to educate Indigenous consumers about their rights and obligations when dealing with rural stores
- > *Know how to complain: stand up for your consumer rights*—a brochure outlining consumers' statutory rights, the steps consumers can take when making a complaint, the assistance that the ACCC can provide and details of alternative agencies that can assist was launched in December 2006
- > *If it sounds too good to be true ... it probably is: spam and scams*—a new edition of a leaflet containing tips on what to watch out for and how to protect yourself from internet scams and spam
- > *Your online rights*—revised version of a flyer that helps consumers understand their rights under the Trade Practices Act when shopping over the internet
- > *Best and fairest*—trade practices compliance training package was rolled out to Indigenous Coordination Centres (ICCs) in Western Australia in March 2007. The ACCC expects this initiative to be adopted on a national scale throughout 2007–08
- > *Dealing with debt: your rights and responsibilities*—a joint ACCC and ASIC publication translated into six languages (June 2007)
- > *Consumer protection and broadband connection speed* (consumer fact sheet)—providing information to consumers on the consumer protection provisions of the Trade Practices Act and important information regarding the factors that may affect broadband connection speed
- > *Unconscionable conduct in small business transactions, Unconscionable conduct in consumer transactions, Refusal to deal* (small business fact sheets)
- > *Being smart about your franchise—checklist before signing a retail lease*—assists prospective franchisees to make informed decisions on whether to sign up to a retail franchise and the related lease agreement

- > *Being smart about your new franchise and your retail lease* (franchise bulletin)—advises existing and prospective franchisees on their franchising retail lease agreement and the associated rights and obligations under the Trade Practices Act and the Franchising Code of Conduct
- > *The franchisee manual*—to assist prospective and existing franchisees in understanding their rights and obligations under the Franchising Code of Conduct
- > *Warranty and refund signs*, news for business—inform retailers of their rights and obligations regarding statutory warranties; also an in-store sign outlining a Trade Practices Act compliant ‘returns’ policy and distributed to more than 10 000 retailers across Australia; new titles in the ‘News for business’ series include: *Bait advertising*, *Comparative advertising*, *Price advertising and the Trade Practices Act*
- > three *Safety alert* brochures were released—*Hot water bottles* (on the safe use of hot water bottles, particularly for the elderly or young children); *Household furniture hazards* (on the dangers that heavy, unstable pieces of household furniture pose to toddlers); *Babies dummies* (was produced to coincide with the introduction of a mandatory product safety standard for dummies)
- > *TPA matters for small business*—is a CD compilation of the ACCC’s small business publications; it also contains links to relevant sections of the ACCC and other government websites
- > *The Oilcode—how does it affect you*—is an educational DVD to inform participants in the downstream petroleum industry of their rights and obligations under the Oilcode
- > *The Horticulture Code—how does it affect you*—a DVD that outlines the key features of the Horticulture Code of Conduct, including horticulture produce agreements, the responsibilities of merchants and agents and dispute resolution
- > *Competing fairly forum—collective bargaining*—educates small businesses about the collective bargaining notification regime introduced by the Dawson amendments to the Trade Practices Act; it features a panel discussion revolving around three main themes: the opportunities collective bargaining can offer to both small and big business; the requirement that all parties invest time and resources in the process and the ACCC’s role in the process

In response to feedback that small business and consumer audiences prefer trade practices information in a simple, easy-to-read format, a fact sheet series was developed comprising ‘overview’ fact sheets (on specific aspects of the Act such as bait advertising or price fixing) and ‘case outcome’ fact sheets (on the outcome of ACCC litigation activity or administrative proceedings). Targeted distribution campaigns ensure that case outcome fact sheets reach those businesses and consumers likely to be most affected by the outcome.

The introduction of two mandatory codes of conduct under the Trade Practices Act (the Oilcode and the Horticulture Code of Conduct) required the development of educational materials to provide businesses subject to the new code with relevant information. As well as comprehensive compliance manuals for each code, guides, summary guides and educational DVDs were also produced. Specific aspects of each code have also been the subject of titles in the ACCC fact sheet series. It was also identified that many growers of horticulture produce are from non-English speaking backgrounds, so educational materials on the Horticulture Code were produced in an additional five languages.

responding to businesses and consumers

The Infocentre is a telephone and email information and complaints service for consumers and businesses. It is the initial response centre for all telephone, email inquiries and complaints to the ACCC on competition and consumer issues in Australia.

Infocentre project officers are required to have a good working knowledge of all ACCC functions and current issues affecting the ACCC. With many contacts each day, callers are provided with an increased awareness of the ACCC's roles and functions, and of their rights and responsibilities as businesses or consumers. The Infocentre is a significant education channel for consumers and businesses alike.

The information received from business and consumers is recorded in the ACCC complaints and inquiries database, with Infocentre project officers creating about 90 per cent of those entries. The quality of information available in the database depends on the recorder asking the right questions to establish what, if any, breach of the Trade Practices Act may have occurred and what evidence is available to support the allegations. Additionally, correct and consistent classification of information is an enormous aid to accurate reporting and analysis.

This information is available to all staff for the purpose of analysing complaint trends and identifying possible areas of further inquiry. Investigators can also contact the Infocentre when they require specific information from callers pertaining to their investigation. Infocentre project officers are able to identify information of a valuable evidentiary nature for a number of investigations by asking targeted questions.

The overwhelming majority of people who contact the Infocentre do so as consumers seeking information or wishing to make a complaint. All matters alleging a breach of the anti-competitive conduct provisions of the Act are passed directly to an investigator. When a caller has a complaint about circumstances for which the ACCC or the Trade Practices Act has no remedy, Infocentre staff help to find another agency or organisation that is able to help that caller.

On 31 October 2006 the ACCC launched the new look SCAMwatch website, operating as an ancillary to the Infocentre, to inform consumers and small business how to recognise, avoid and report scams. The SCAMwatch website also serves as the internet portal for the annual scam awareness campaign of the Australian Consumer Fraud Taskforce.

ACCC Infocentre	1300 302 502
Small business helpline	1300 302 021
SCAMwatch complaint line	1300 795 995
SCAMwatch website	www.scamwatch.gov.au
ACCC website	www.accc.gov.au

output 1.1.1

Compliance with competition, fair trading and consumer protection laws and appropriate remedies when the law is not followed

this year the ACCC Infocentre

performance indicator	> responded to 54 035 calls on the Infocentre line, with 71 per cent of calls responded to in less than 20 seconds
respond quickly to allegations of breaches of competition, fair trading and consumer legislation	> entered 47 334 matters in the complaints and inquiries database (88 per cent of calls served); these 47 334 matters disclosed 52 589 contravention allegations
	> received 14 773 legitimate emails; of these 3137 emails were received through the SCAMwatch 'report a scam' online complaint form
	> sent out publications to 3361 callers; a total of 263 930 publications were sent out, with many callers requesting multiple copies of publications

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

email complaints

	this year	last year
total number of emails received	61 637	17 718
spam or junk emails	48 684	9 941
legitimate email responses	14 773	7 777
telephone responses	6 181	4 589
answered by return email	6 647	2 225
sent elsewhere for response	448	560
no response required (predominately spam)	1 497	403

business information complaints or inquiries

	this year	last year
total number	14 262	10 452
about a small business	2 683	2 971
from a small business	2 893	3 941
about a franchise matter	853	747
about an online trader or ecommerce	7 833	2 883
escalated for investigation	807	991
flagged for future review	1 010	1 244

top ten industries for complaints and inquiries

	this year	last year*
wired telecommunications network operation	4 695	N/A
telecommunication services	2 165	4 391
lotteries	2 102	1 059
automotive fuel retailing	1 837	1 835
electrical, electronic and gas appliance retailing	1 422	N/A
services to finance and investment	1 331	812
business services generally	1 348	4 590
non-store retailing	1 095	N/A
car retailing	1 072	1 404
internet service providers and web search portals	982	N/A

* The Australian and New Zealand Standard Industrial Classification (ANZSIC) is the standard classification used by the Australian Bureau of Statistics and Statistics New Zealand for classifying statistical units by industry in official statistics.

In 2006 a new edition of the ANZSIC was introduced to provide a more contemporary industrial classification system. The ACCC implemented the new edition of ANZSIC into its complaints database in October 2006, replacing the 1993 version. Due to a substantial increase in the number of divisions and subdivisions in the new edition, some anomalies between data recorded against the previous classification structure and the new edition have occurred.

top ten possible contraventions of the Trade Practices Act

predominately fair trading and consumer protection part V

	this year	last year
misleading or deceptive conduct	15 144	13 193
retail warranties	4 414	4 741
price misrepresentation	1 241	1 188
accepting payment non-supply	1 121	854
misrepresentation of performance	984	761
misrepresentation of warranty, guarantee	626	
misrepresentation of grade, quality	502	613
unsolicited telecommunication services	437	
harassment and coercion	432	588

predominately effective competition and informed markets part IV

	this year	last year
exclusive dealing	372	458
misuse of market power	364	451

publications sent to callers

	this year	last year
Keeping baby safe	62 018	34 857
Safe toys for kids	41 483	25 522
Blind/curtain cords (safety alert)	14 133	29 950
The little black book of scams	13 077	11 041
Baby bath aids, brochure	12 158	10 725
Fire safety at home	12 045	36 788
Household furniture hazards for kids (safety alert)	9 168	N/A
Using a ladder (safety alert)	9 131	4 643
Toy safety	8 946	6 010
Cot safety	8 583	8 661

geographic source of allegations of contraventions of the Trade Practices Act

(47 334 complainants disclosed 52 598 allegations of contraventions).

	New South Wales	Victoria	Queensland	Western Australia	South Australia	Australian Capital Territory	Tasmania	Northern Territory	others	total
part IV										
last year	1 258	991	736	359	297	121	79	41	11	3 893
this year	933	629	542	298	223	95	69	35	22	2 846
part V										
last year	8 978	8 744	7 196	2 831	2 329	1 236	797	302	284	32 697
this year	9 487	8 902	7 928	2 993	2 364	1 196	844	388	539	34 641
part IVA/B										
last year	302	250	233	104	98	23	22	13	5	1 050
this year	295	264	269	82	89	17	20	17	4	1 057
prices										
last year	1	0	1	0	0	1	0	0	0	3
this year	0	0	0	0	0	0	0	0	0	0
other										
last year	2 947	2 516	2 222	828	663	365	198	133	128	10 000
this year	4 710	3 104	3 072	1 014	3 630	492	324	192	154	16 692
total										
last year	13 486	12 501	10 388	4 122	3 387	1 746	1 096	489	428	47 643
this year	15 438	12 909	11 821	4 388	3 630	1 802	1 258	632	720	52 598

enforcing for business and consumers

output 1.1.1

compliance with competition, fair trading and consumer protection laws and appropriate remedies when the law is not followed

this year the ACCC

performance indicator

seek appropriate remedies when there is a breach of the law

- > concluded 24 cases of the 58 matters before the court during the year, accepted 52 public undertakings; commenced 28 new cases, 8 of which were concluded this year; 34 cases are currently before the courts; the ACCC did not intervene in any proceedings in the reporting period
- > monitored performance of court orders and undertakings; took action to ensure that remedies ordered in concluded litigation and agreed to in public settlements were honoured; as part of this work the ACCC assessed 80 trade practices compliance programs, considered and accepted 87 compliance program review reports and finalised 34 compliance program matters
- > considered a number of applications for immunity and marker placements under the ACCC immunity policy for cartel conduct; substantial cartel investigations are in progress
- > reinforced the seriousness of price fixing and market sharing, concluding litigation regarding sporting goods and garnet supply
- > stopped wholesalers from limiting discounting on consumer electronics, kitchenware, power tools, clothing and skin care
- > stopped misleading, deceptive and unconscionable conduct regarding various consumer products and services and obtained refunds for consumers where relevant
- > accepted court enforceable undertakings for a wide range of prohibited conduct relating to products and services
- > in investigations, issued 484 notices under its powers to compulsorily acquire information (s. 155); 206 notices to provide information in writing (s. 155(1)(a)); 206 notices to provide documents (s. 155(1)(b)); 72 notices to appear in person (s. 155(1)(c)) and no authorities were issued to enter premises and inspect documents (s. 155(2)) and no premises were entered under search warrant (Part XIX)

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

enforce mandatory product standards and information standards

- > conducted surveys at retail outlets across Australia and on internet sites for products subject to mandatory product safety and information standards and banned goods
- > commissioned proactive laboratory testing on randomly sampled products covered by mandatory standards
- > investigated complaints concerning alleged breaches of mandatory product safety and information standards and bans
- > undertook enforcement action resulting in the withdrawal from sale and/or recall of babies dummies, baby walkers, basketball rings and backboards, bean bags, bunk beds, children's cots, children's dart gun sets, children's nightwear, elastic luggage straps, fire extinguishers, flotation toys and swimming aids, no holes tongue studs, pedal bicycles, sunglasses and fashion spectacles, toys for children under 3 (including small balls/toys containing small balls) and tobacco labelling
- > accepted 9 court enforceable undertakings relating to the supply of baby walkers, bunk beds, cosmetics, children's cots, elastic luggage straps, flotation toys and swimming aids, pedal bicycles, sunglasses and fashion spectacles
- > court enforceable undertakings incorporated broad-based educational outcomes including:
 - > publication of disclosure notices alerting parents to the dangers of buying products for children that do not meet product safety standards and reminding manufacturers/retailers of their obligations
 - > consumer information regarding baby cots and walkers distributed nationally through 'baby bounty' bags to new mothers
- > concluded 5 matters in court for breaches of mandatory product safety and information standards and related offences covering baby walkers, children's cots, high-lift jacks and tobacco labelling
- > undertook administrative action over breaches in relation to basketball rings and backboards, flotation toys and swimming aids, sunglasses and fashion spectacles, toys for children under 3 (small balls/toys containing small balls) and tobacco labelling

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator	> worked with industry to develop strategies to ensure that internet sites comply with trade practices provisions/guidelines
develop new consumer protection and investigative initiatives for e-commerce	> ongoing monitoring and education of online traders and auction websites to ensure compliance with the Act, including refund and warranty terms, comparative pricing, misleading or deceptive claims and breaches of mandatory product safety and information standards > undertook enforcement action in relation to tobacco products sold over the internet > undertook administrative action over breaches in relation to false or misleading representations with regards to price

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

litigation matters and undertakings accepted

	effective competition and informed markets	fair trading and consumer protection	other	total
litigation concluded during 2006–07	9	12	3	24
litigation continuing at end of 2006–07	15	14	5	34
undertakings accepted during 2006–07	12	38	2	52
total matters: concluded and continuing				110

snapshot of litigation and administrative settlements

The following information provides a brief summary of enforcement activity undertaken by the ACCC during the year. Information is also available on the website www.accc.gov.au, in the ACCC *ejournal* or by contacting the Infocentre on 1300 302 502. The information is grouped:

1. litigation concluded during 2006–07
2. litigation continuing at end of 2006–07
3. undertakings accepted during 2006–07

effective competition and informed markets

part IV	anti-competitive conduct: price fixing, market sharing, boycotts, agreements substantially lessening competition, misuse of market power, exclusive dealing, resale price maintenance, mergers and acquisitions substantially lessening competition
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fair trading and consumer protection

part IVA	unconscionable conduct in commercial and consumer transactions
part IVB	industry codes of conduct; the franchising code is a mandatory code prescribed under Part IVB
part V	unfair practices, misleading and deceptive conduct, pyramid selling, country of origin representations, product safety and information, conditions and warranties in consumer transactions
part VC	criminal conduct in fair trading and consumer protection
other	refusal or failure to comply with a notice under section 155, contempt proceedings

1. litigation concluded during 2006–07

effective competition and informed markets

timber merchant	Auspine Limited and others commenced 4 August 2005 concluded 24 January 2007 price fixing of timber estimating services in South Australia Justice Besanko Federal Court Adelaide outcome consent orders: undertakings to the court including injunctions and implementation of a trade practices compliance program and training significance attempted price fixing is a serious breach
garnet supply	Barton Mines Corporation and others commenced 15 March 2005 concluded 22 September 2006 agreement containing exclusionary provisions in relation to the international supply of industrial garnet Justice Tracey Federal Court Melbourne outcome consent orders: penalties totalling \$1.525 million, declarations, injunctions and costs significance collusion is a serious breach
kitchenware	Cambur Industries Pty Limited and another commenced 22 September 2005 concluded 11 August 2006 resale price maintenance in the wholesale supply of kitchenware Justice Besanko Federal Court Adelaide outcome consent orders: declarations, costs, and the court accepted undertakings related to a trade practices compliance program; Cambur Industries to pay penalties of \$280 000 and Mr Caulfield to pay penalties of \$32 000 significance retailers should be free to make their own pricing decisions
construction	Construction Forestry Mining & Energy Union (CFMEU) and others commenced 24 November 2005 concluded 12 December 2006 secondary boycott Justice Nicholson Federal Court Perth outcome penalties totalling \$100 000, declarations, implement a trade practices compliance program, orders to publish a notice to their members and agreed costs significance secondary boycott activity is a serious contravention

**digital
set-top boxes**

Digital Products Group Pty Ltd and others

commenced 27 September 2006 | **concluded** 13 December 2006

resale price maintenance in relation to certain 'Topfield' branded digital set-top boxes

Justice Tracey | Federal Court Melbourne

outcome | consent orders: penalties totalling \$297 500, declarations, injunctions and implement a trade practices compliance program

significance | retailers should be able to determine the advertised price

sports apparel

Fila Sport Oceania Pty Ltd and others

commenced 5 September 2002 | **concluded** 27 November 2006

misuse of market power and exclusive dealing through imposition of selective distribution policy

Justice Kenny | Federal Court Melbourne

outcome | consent orders: penalties totalling \$20 000 and declarations against the second respondent Mr David Carey; judgment against the first respondent was handed down in 2004 and included penalties of \$3 million

significance | misuse of market power with the intention of eliminating competitors is a serious breach

skin care

Jurlique International Pty Ltd and others

commenced 14 August 2006 | **concluded** 8 February 2007

resale price maintenance and price fixing conduct in relation to skincare, cosmetic and herbal products and treatment services offered under the 'Jurlique' brand name

Justice Spender | Federal Court Brisbane

outcome | consent orders: penalties totalling \$3.4 million, declarations, injunctions and costs

significance | retailers should be free to make their own pricing decisions

vitamins

Merck KGaA, F Hoffmann-La Roche Ltd, BASF Aktiengesellschaft and Takeda Chemical Industries Ltd

commenced 24 August 2001 | **concluded** 7 July 2006

alleged price fixing and market sharing in the global market for vitamin C

Justice Merkel | Federal Court Melbourne

outcome | the ACCC discontinued proceedings after further investigations indicated that the cartel arrangements made by the foreign companies were probably not given effect to in Australia

power tools**Tooltechnic Systems (Aust) Pty Ltd****commenced** 30 January 2007 | **concluded** 21 March 2007

attempting to induce power tool resellers not to discount from list prices

Justice Kiefel | Federal Court Brisbane

outcome | consent orders: penalties totalling \$125 000, declarations, injunctions and costs**significance** | retailers should be free to make their own pricing decisions

fair trading and consumer protection

medical claims**Advanced Medical Institute Pty Ltd and others****commenced** 19 July 2004 | **concluded** 15 August 2006

misleading or deceptive conduct in TV celebrity advertising regarding impotence and erectile dysfunction treatments

Justice Lindgren | Federal Court Sydney

outcome | declarations and costs**significance** | endorsement of products by celebrities should be truthful and accurate

insulation batts**Autex Pty Ltd****commenced** 15 February 2007 | **concluded** 5 June 2007

misleading thermal resistance labelling of certain 'GreenStuf' brand packaged polyester; also involved a breach of a court enforceable undertaking

Justice Sundberg | Federal Court Melbourne

outcome | consent orders: injunctions, declarations, corrective notice and costs**significance** | representations regarding product attributes must be accurate

**high-lift
vehicle jacks****Beaver Sales Pty Limited****commenced** 13 July 2006 | **concluded** 20 March 2007

breach of the prescribed consumer product safety standard relating to high-lift vehicle jacks sold as 'Black Rat Power Lifter'

Justice Cowdroy | Federal Court Sydney

outcome | consent orders: declarations, injunctions, establish a trade practices compliance program and costs**significance** | mandatory product safety and information standards must be adhered to

waste disposal**BIS Cleanaway and another****commenced** 1 December 2004 | **concluded** 7 September 2006

misleading or deceptive and unconscionable conduct relating to the signing up of customers to waste disposal contracts in Rockhampton

Justice Greenwood | Federal Court Brisbane

outcome | consent orders: declarations, write to affected customers to advise the outcome of the proceedings, to offer the opportunity to lodge a complaint and/or to make a claim for compensation

significance | businesses need to ensure that in their business dealings they adhere to the necessary standards of honesty and fair dealing

tobacco**British American Tobacco Australia Ltd****commenced** 14 November 2006 | **concluded** 23 April 2007

supplying Dunhill wallet packs that did not comply with the prescribed consumer product information standard for tobacco labelling requirements

Justice Tamberlin | Federal Court Sydney

outcome | consent orders: undertaking to the court

significance | mandatory product safety and information standards must be adhered to

muscle stimulation**Emerald Ocean Distributors Pty Ltd and others****commenced** 11 July 2000 | **concluded** 11 August 2006

misleading or deceptive conduct and misrepresentations regarding health and cosmetic benefits of an electronic muscle stimulation product

Justice Nicholson | Federal Court Perth

outcome | declarations, injunctions, corrective notices, implementation of a trade practice compliance program and costs; Full Federal Court appeal and cross claim was dismissed by consent

significance | health claims should be accurate and based on reasonable grounds

**prepaid telephone
card vending**

Global Prepaid Communications Pty Ltd and others

commenced 19 March 2003 | **concluded** 8 August 2006

misleading or deceptive conduct including misleading representation regarding profitability and risk in relation to sale of phone card vending machine distributorships

Justice Jacobson | Federal Court Sydney

outcome | declarations, injunctions, compensation totalling more than \$3.5 million to be paid to 23 small businesses and costs; appeal by Mr Nicholas Yates and Mr Nicholas Rhodin was dismissed with costs

significance | representations made about profitability of business opportunities must be accurate

computers

Info4pc.com P/L and another

commenced 22 January 2001 | **concluded** 16 November 2006

misleading or deceptive conduct, bait advertising and accepting payment not intending to supply in relation to computers

Justice Nicholson | Federal Court Perth

outcome | declarations and costs against Mr James Hamilton Rae (company deregistered in 2003)

significance | capacity to provide products or services must be realistically assessed

mobile phones

LG Electronics Australia Pty Ltd

commenced 29 December 2005 | **concluded** 4 July 2006

misleading and deceptive conduct and false representations made in online mobile phone user manuals about the duration of statutory conditions and warranties implied by the *Trade Practices Act 1974* and also about the rights and remedies that were available to mobile telephone owners/consumers

Justice Siopis | Federal Court Perth

outcome | declarations, injunctions, review existing trade practices compliance program, corrective notices and costs

significance | companies cannot restrict or modify a statutory warranty

medical claims

Menopause Institute of Australia and another

commenced 31 July 2006 | **concluded** 18 December 2006

misleading or deceptive conduct in the advertising and promotion of its 'Natural Hormone Replacement Therapy Program' for the treatment of menopause

Justice Branson | Federal Court Sydney

outcome | orders by consent: admission, injunctions, corrective notices and costs

significance | health claims should be accurate and based on reasonable grounds

medical claims**NuEra Health Pty Ltd (in liquidation) and others****commenced** 24 November 2006 | **concluded** 9 May 2007

misleading and deceptive conduct in respect of cancer cure claims; unconscionable conduct in taking advantage of disadvantaged consumers

Justice Heerey | Federal Court Melbourne

outcome | declarations, injunctions and costs**significance** | health claims should be accurate and based on reasonable grounds

**high lift
vehicle jacks****TWM Imports Pty Ltd****commenced** 23 December 2005 | **concluded** 25 July 2006

breach of the prescribed consumer product safety standards relating to high-lift vehicle jacks

Justice Heerey | Federal Court Hobart

outcome | declarations, finding of fact, injunctions, public recall, revise its current trade practices compliance program and costs**significance** | mandatory product safety and information standards must be adhered to

criminal proceedings**baby walkers
and cot****Skippy Australia Pty Ltd****commenced** 20 April 2006 | **concluded** 18 October 2006

non-compliance with mandatory consumer product safety standards for baby walkers, false representation that a cot was of a particular standard and misrepresentation of refund rights

Justice Tracey | Federal Court Melbourne

outcome | fines totalling \$860 000 and costs**significance** | mandatory product safety and information standards must be adhered to and significant criminal fines can be imposed; 'no refund' signs can be illegal

contempt proceedings**industry****Dynacast (INT) Pty Ltd (formerly phoneflasher.com Pty Ltd)****commenced** 4 October 2005 | **concluded** 26 March 2007

non-compliance with consent orders

Justice Finn | Federal Court Adelaide

outcome | found in contempt of court and fined \$7000**significance** | orders made by the court must be complied with

ACCC respondent

**commercial
air-conditioning**

CMS Engineering Pty Ltd and another

commenced 17 June 2004 | **concluded** 23 May 2007

challenge to an examination under section 155(1)(c)

Justice Lee | Federal Court Perth

outcome | matter discontinued

2. litigation continuing at end of 2006–07

effective competition and informed markets

**commercial
air conditioning**

**Admiral Mechanical Services Pty Ltd and others (formally WA
air conditioning firms)**

commenced 17 December 2004

entering agreements lessening competition through bid
rigging with respect to commercial air conditioning contracts
in Western Australia

Justice Nicholson | Federal Court Perth

status court processes continuing

fine paper

**April International Marketing Services Australia Pty Ltd
and others**

commenced 6 December 2006

entering into arrangements, contracts or understandings
with competitors for the supply of fine paper products

Justice Bennett | Federal Court Sydney

status court processes continuing

**marine fishing
(abalone)**

Australian Abalone Pty Ltd and others

commenced 9 November 2005

anti-competitive agreements among abalone quota holders

Justice Middleton | Federal Court Melbourne

status court processes continuing

medical fluids

Baxter Healthcare Pty Ltd

commenced 1 November 2002

misuse of market power and exclusive dealing in relation
to the supply of health products to state government
purchasing authorities

High Court of Australia

status judgment reserved

construction	Construction Forestry Mining & Energy Union (CFMEU) and others
	commenced 23 August 2006
	engaging in conduct to induce/implement a secondary boycott
	Justice Gyles Federal Court Sydney
	status court process continuing
funeral directors	Dally M Publishing & Research Pty Limited and another
	commenced 27 March 2007
	attempt to induce civil funeral celebrants to collectively increase and charge a minimum agreed fee
	Justice Finkelstein Federal Court Melbourne
	status court processes continuing
wood preservative chemicals	FCHEM (Aust) Limited and others
	commenced 31 July 2006
	price fixing in relation to the supply of various wood preservative chemicals including CCA (copper chromium arsenic) and LOSP (light organic solvent preservatives); these products are widely used by the timber industry
	Justice Cowdroy Federal Court Sydney
	status court process continuing
electrical services	IPM Operation and Maintenance Loy Yang Pty Ltd (formerly Edison Mission Operation and Maintenance Loy Yang Pty Ltd) and the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU)
	commenced 7 February 2005
	arrangement between IPM and the CEPU containing a provision which had the purpose of preventing IPM from engaging certain electrical contractors
	Federal Court and Full Federal Court
	status in January 2007 Justice Young made declarations, imposed injunctions, a penalty of \$125 000 and costs against the CEPU. In February 2007 Justice Tracey by consent made declarations, imposed a penalty of \$120 000 and costs against IPM. The CEPU appealed to the Full Federal Court against liability and penalty in respect of the judgment against it. The judgment in respect of the appeal has been reserved

cardiothoracic surgeons	<p>Knight, John Lincoln and another</p> <p>commenced 5 February 2007</p> <p>anti-competitive conduct with the purpose, effect or likely effect of substantially lessening competition</p> <hr/> <p>Justice Mansfield Federal Court Adelaide</p> <hr/> <p>status court processes continuing</p>
education consultants	<p>Kokos International Pty Ltd and others</p> <p>commenced 1 November 2006</p> <p>engaging in price fixing and other anti-competitive conduct where the respondents entered into arrangements or understandings not to offer or accept discounted school tuition fees from Korean students</p> <hr/> <p>Justice French Federal Court Perth</p> <hr/> <p>status court processes continuing</p>
fuel retailing	<p>Leahy Petroleum Pty Ltd and others</p> <p>commenced 7 November 2003</p> <p>alleged price fixing of petrol in the Geelong area</p> <hr/> <p>Justice Gray Federal Court Melbourne</p> <hr/> <p>status ACCC application dismissed in May 2007, matter continuing in relation to costs</p>
liquor retailing	<p>Liquorland (Aust) Pty Ltd and Woolworths Ltd</p> <p>commenced 27 June 2003</p> <p>anti-competitive agreements and primary boycotts through restrictive agreements with operators of licensed premises for the purpose of substantially lessening competition in packaged takeaway liquor markets</p> <hr/> <p>Justice Allsop Federal Court Sydney</p> <hr/> <p>status judgment handed down in December 2006, included declarations and penalties totalling \$7 million against Woolworths; in May 2005, Liquorland admitted that it had entered into illegal agreements with five applicants for liquor licences and was penalised \$4.75 million; court process continuing in relation to final orders</p>
consumer electronics	<p>Teac Australia Pty Ltd and another</p> <p>commenced 27 June 2007</p> <p>resale price maintenance in the sale of consumer electronic goods</p> <hr/> <p>Justice Kenny Federal Court Victoria</p> <hr/> <p>status court process continuing</p>

navigation products	Navman Australia Pty Ltd and others
	commenced 6 December 2006
	resale price maintenance in the supply of 'Navman' marine, in-car and personal electronic navigation products
	Justice Jacobson Federal Court Sydney
	status court processes continuing
corrugated fibreboard container industry	Visy Industries Holdings Pty Limited and others
	commenced 21 December 2005
	entering into anti-competitive arrangements
	Justice Heerey Federal Court Melbourne
	status court processes continuing
fair trading and consumer protection	
internet service provider	Dataline.net.au Pty Ltd and others
	commenced 21 December 2001
	misleading, deceptive and unconscionable conduct and resale price maintenance regarding supply of internet-related services to small businesses and consumers
	Justices Dowsett, Greenwood, Moore Full Federal Court Brisbane
	status judgment reserved
poultry farming (eggs)	G.O. Drew Pty Ltd and another
	commenced 4 November 2005
	misleading and deceptive conduct and misrepresentations in relation to the supply of certified organic eggs
	Justice Gray Federal Court Melbourne
	status judgment reserved
tobacco products retailing	Guirguis, Mina
	commenced 13 April 2007
	supply of retail packages of tobacco namely cigarettes in packets and cartons which do not comply with the mandatory product information standard as the retail packages did not display the required messages and graphic images
	Justice Heerey Federal Court Melbourne
	status court processes continuing

access to essential services	<p>Imagine Essential Services Limited, Richard Evans and The Triumphant Group Pty Ltd</p> <p>commenced 29 June 2007</p> <p>misleading and deceptive conduct and misrepresentations in the sale of licences offering discounts for essential services</p> <p>Justice Gordon Federal Court Victoria</p> <p>status court process continuing</p>
drink machines	<p>Kyloe Pty Ltd and others</p> <p>commenced 20 July 2006</p> <p>contravention of industry codes</p> <p>Justice Tracey Federal Court Melbourne</p> <p>status judgment reserved</p>
lotteries	<p>Pacific Network Services Ltd (third party) and others</p> <p>commenced 23 February 2007</p> <p>misleading and deceptive claims in relation to a lottery scam</p> <p>Justice Collier Federal Court Brisbane</p> <p>status court processes continuing</p>
jewellery	<p>Prouds Jewellers Pty Ltd</p> <p>commenced 8 December 2006</p> <p>making 'Was/Now' price comparisons that were false or misleading</p> <p>Justice Moore Federal Court Sydney</p> <p>status court processes continuing</p>
introduction services	<p>Rural Network Pty Ltd and another</p> <p>commenced 28 April 2005</p> <p>misleading or deceptive conduct in relation to the promotion of introduction agency services</p> <p>Justice Spender Federal Court Brisbane</p> <p>status court processes continuing</p>
property investment	<p>Seven Network Ltd and others</p> <p>commenced 27 September 2005</p> <p>misleading or deceptive conduct in the promotion of a millionaire property investment mentoring program 'Wildly Wealthy Women'</p> <p>Justice Bennett Federal Court Sydney</p> <p>status judgment reserved</p>

**rugs and
manchester**

Terania Pty Ltd and Australian Rug Expos Pty Ltd

commenced 2 March 2007

false or misleading representations as to price; 'was' and 'sale' price labelling; deceptive or misleading conduct in relation to representations as to duration and clearance nature of sales

Justice Mansfield | Federal Court Northern Territory

status court processes continuing

**takeaway food
retailing**

The Original Mama's Pizza and Ribs and others

commenced 25 November 2005

misleading and deceptive conduct in relation to legal rights associated with purchase of fast food systems

Justice Madgwick | Federal Court Sydney

status judgment reserved

vehicle jacks

Trade Quip Pty Ltd and another

commenced 31 March 2006

breach of the prescribed consumer product safety standard relating to hydraulic trolley jacks and misleading and deceptive conduct by making false representations in relation to the supply of certain automotive products

Justice Weinberg | Federal Court Melbourne

status court processes continuing

criminal proceedings

fair trading and consumer protection

diamond industry

Carrerabenz Diamond Industries Pty Ltd and another

commenced 20 December 2005

misleading price comparisons in advertising diamond clearance sales

Justice Dowsett | Federal Court Brisbane

status court processes continuing

jewellery

Zamel's Pty Ltd

commenced 20 December 2006

making strike-through price comparisons that were false or misleading

Justice Mansfield | Federal Court Adelaide

status court processes continuing

other proceedings

industry **Neville, John Patrick**

commenced 11 April 2007

false or misleading evidence during course of s. 155(1)(c) examination

Justice Lindgren | Federal Court Sydney

status pleaded guilty to two charges of providing false or misleading evidence; sentencing hearing to be held on 25 September 2007

industry **NuEra Wellness Centre Pty Ltd**

commenced 29 June 2007

refused or failed to comply with a notice under s. 155(1) of the Trade Practices Act

Justice North | Federal Court Melbourne

status court process continuing

industry **Rana, Michael Lee**

commenced 29 June 2007

offence against s. 11.2(1) of the *Criminal Code Act 1995* in that he allegedly aided, abetted, counselled or procured a refusal or failure to comply with a notice under s. 155(1) of the Trade Practices Act

Justice North | Federal Court Melbourne

status court process continuing

industry **Rana, Paul John**

commenced 29 June 2007

refused or failed to comply with a notice under s. 155(1) of the Trade Practices Act, and offence against s. 11.2(1) of the *Criminal Code Act 1995* in that he allegedly aided, abetted, counselled or procured a refusal or failure to comply with a notice under s. 155(1) of the Act

Justice North | Federal Court Melbourne

status court process continuing

contempt proceedings

industry **Mr Bon Levi**

commenced 13 June 2007

breach of court ordered injunctions

Justice Kiefel | Federal Court Brisbane

status court process continuing

3. Undertakings accepted during 2006–07

effective competition and informed markets

clothing

Jaggad Pty Ltd

Melbourne | 2 April 2007

conduct | Jaggad dealer terms required premium resellers to sell Jaggad Apparel at the recommended retail prices set by Jaggad

undertaking | court enforceable undertaking to not enter into an agreement or to set the minimum price below which goods cannot be sold or advertised; publish a public disclosure notice in a trade journal; corrective letters to its dealers and other resellers advising of the ACCC's concerns and resellers' rights to sell stock at any price; and undertake trade practices compliance training

significance | retailers should be free to make their own pricing decisions

clothing

Jurlique International Pty Ltd and others

Brisbane | 12 September 2006

conduct | resale price maintenance and price fixing conduct in relation to skincare, cosmetic and herbal products and treatment services offered under the 'Jurlique' brand name

undertaking | court enforceable undertaking to write to each person to whom it supplied products advising that they are free to decide at what price to sell Jurlique products; write to franchisees to advise them that where Jurlique and its franchisees are in competition with each other they are prohibited from agreeing on the price to sell their services and to establish a trade practices compliance program

significance | retailers should be free to make their own pricing decisions

amusement services

Marshall, James Gavin

Sydney | 7 December 2006

conduct | boycott through an arrangement not to supply amusement services to independent organisers of amusement areas for certain events

undertaking | court enforceable undertaking for trade practices compliance training; notify all members when a guild show becomes a non-guild show and that members are free to attend and provide services at the show; and publish a notice in the industry's trade magazine outlining the terms of the settlement

significance | boycotts entered into by industry bodies have the potential to inhibit competition

computer products **Optima Technology Solutions Pty Ltd**

Sydney | 5 December 2006

conduct | resale price maintenance by making it known to an Optima dealer that the dealer should raise the prices at which it sells Optima products to their recommended retail price, otherwise Optima would withhold the supply of products or cancel the dealer's dealership agreement

undertaking | court enforceable undertaking to refrain from engaging in conduct that constitutes resale price maintenance; establish a trade practices compliance program; implement an audit process of Optima's past business interactions with Optima dealers and send a letter to all dealers outlining the findings of the investigation and the dealers' freedom to determine their own prices for the products

significance | retailers should be free to make their own pricing decisions

amusement services
Osborne, Lewis Eric

Sydney | 7 December 2006

conduct | boycott through an arrangement not to supply amusement services to independent organisers of amusement areas for certain events

undertaking | court enforceable undertaking for trade practices compliance training; notify all members when a guild show becomes a non-guild show and that members are free to attend and provide services at the show; and publish a notice in the industry's trade magazine outlining the terms of the settlement

significance | boycotts entered into by industry bodies have the potential to inhibit competition

amusement services
Pavier, Broderick William

Sydney | 7 December 2006

conduct | boycott through an arrangement not to supply amusement services to independent organisers of amusement areas for certain events

undertaking | court enforceable undertaking for trade practices compliance training; notify all members when a guild show becomes a non-guild show and that members are free to attend and provide services at the show; and publish a notice in the industry's trade magazine outlining the terms of the settlement

significance | boycotts entered into by industry bodies have the potential to inhibit competition

amusement services

Pink, Aaron

Sydney | 7 December 2006

conduct | boycott through an arrangement not to supply amusement services to independent organisers of amusement areas for certain events

undertaking | court enforceable undertaking for trade practices compliance training; notify all members when a guild show becomes a non-guild show and that members are free to attend and provide services at the show; and publish a notice in the industry's trade magazine outlining the terms of the settlement

significance | boycotts entered into by industry bodies have the potential to inhibit competition

amusement services

Pink, George

Sydney | 7 December 2006

conduct | boycott through an arrangement not to supply amusement services to independent organisers of amusement areas for certain events

undertaking | court enforceable undertaking for trade practices compliance training; notify all members when a guild show becomes a non-guild show and that members are free to attend and provide services at the show; and publish a notice in the industry's trade magazine outlining the terms of the settlement

significance | boycotts entered into by industry bodies have the potential to inhibit competition

power tools

Schulz, Holger

Brisbane | 17 January 2007

conduct | as a company managing director, contributing to an environment in which resale price maintenance occurred and failing to take reasonable steps to avoid resale price maintenance conduct by some of the company's sales managers

undertaking | court enforceable undertaking that he will not, by his conduct, induce others to engage in resale price maintenance

significance | managers must properly train and supervise their staff about trade practices law compliance

amusement services

Short, Peter James

Sydney | 7 December 2006

conduct | boycott through an arrangement not to supply amusement services to independent organisers of amusement areas for certain events

undertaking | court enforceable undertaking for trade practices compliance training; notify all members when a guild show becomes a non-guild show and that members are free to attend and provide services at the show; and publish a notice in the industry's trade magazine outlining the terms of the settlement

significance | boycotts entered into by industry bodies have the potential to inhibit competition

amusement services

The Showmen's Guild of Australasia

Sydney | 7 December 2006

conduct | boycott through an arrangement not to supply amusement services to independent organisers of amusement areas for certain events

undertaking | court enforceable undertaking for trade practices compliance training; notify all members when a guild show becomes a non-guild show and that members are free to attend and provide services at the show; and publish a notice in the industry's trade magazine outlining the terms of the settlement

significance | boycotts entered into by industry bodies have the potential to inhibit competition

power tools

Tooltechnic Systems (Aust) Pty Ltd

Brisbane | 17 January 2007

conduct | attempting to induce power tool resellers not to discount from list prices

undertaking | court enforceable undertaking to establish a trade practices compliance program

significance | retailers should be free to make their own pricing decisions

bedding

Adairs The House of Linen (Aust) Pty Ltd

Hobart | 8 November 2006

conduct | misrepresenting that 'Downtime' brand down quilts contained 100 per cent goosedown when they did not

undertaking | court enforceable undertaking to offer refunds through corrective notices; refrain in future from making any down content claims for its products unless the claims can be substantiated and implement a trade practices compliance program

significance | representations regarding product attributes must be accurate

elastic luggage straps

Asia Source Australia Pty Ltd

Canberra | 13 October 2006

conduct | supply of luggage straps which did not comply with the mandatory product safety and information standard because the warning label had incorrect information and was not permanently attached

undertaking | court enforceable undertaking to cease sale of the Porta Hardware and Bilst elastic luggage straps, voluntary recall, corrective notices, refrain in the future from supplying elastic luggage straps with labels that do not comply with the mandatory product safety and information standard and implement a trade practices compliance program

significance | mandatory product safety and information standards must be adhered to

baby cots and walkers

Ausia Australia Pty Ltd

Melbourne | 6 March 2007

conduct | sale of baby cots and walkers over the internet which may not have not complied with mandatory product safety standards

undertaking | court enforceable undertaking to conduct a voluntary recall, publish disclosure notices, distribution of consumer information and implement a trade practices compliance program

significance | mandatory product safety and information standards must be adhered to

**household
insulation**
Auspoly Pty Ltd (variation)

Melbourne | 21 May 2007

conduct | Misrepresentations in respect of the 'R value' or insulation value of domestic polyester insulation batts

undertaking | Auspoly has undertaken to install a new and fully automated polyester batt production plant that includes automatic weighing and computerised labelling of batts, to compensate consumers who bought the affected batts and to publish an educative article about the Trade Practices Act in a major trade publication

significance | representations regarding product attributes must be accurate

**complementary
medicine**
Aussia Australia Pty Ltd

Canberra | 18 June 2007

conduct | Aussia Australia Pty Ltd imported from New Zealand bulk supplies of squalene and propolis products in capsule form, which were then packaged into retail quantities and labelled 'made in Australia'. Aussia also claimed on its website to operate a modern factory and employ its own researchers, when it had no role in research or manufacture of its products. These products, traditionally used in Chinese medicine, were sold by Aussia both in Australia and overseas

undertaking | court enforceable undertaking to remove any misrepresentations from existing stock; inform resellers and purchasers of the incorrectly labelled products; review its advertising and promotional material to ensure that any representations comply with the Trade Practices Act; publish an article regarding country of origin claims in an appropriate Chinese publication

significance | country of origin claims must be accurate

bedding
Australian Feather Mills Pty Ltd

Hobart | 31 January 2007

conduct | misrepresenting that 'Downia' and 'Artic Down' brand quilts and pillows contained 100 per cent goosedown when they did not

undertaking | court enforceable undertaking not to make any percentage representations about the down content that it cannot substantiate; publish corrective notices and implement a trade practices compliance program

significance | representations regarding product attributes must be accurate

**high lift
vehicle jacks**

Beaver Sales Pty Limited

Darwin | 28 July 2006

conduct | Beaver Sales breached the prescribed consumer product safety standard relating to high-lift vehicle jacks sold as 'Black Rat Power Lifter'

undertaking | court enforceable undertaking to conduct a public recall of the Black Rat jack on a non-admission basis

significance | mandatory consumer product safety and information standards must be adhered to

fruit juice

Bevco Pty Ltd

Brisbane | 5 June 2007

conduct | labelling of a number of Bevco and Macquarie Valley branded fruit juice products as '100% Australian Made and Owned' although the products consisted of 99.9 per cent imported reconstituted juice

undertaking | court enforceable undertaking to refrain from labelling its beverage products as '100% Australian Made and Owned' unless it can substantiate the claims, publish a corrective notice and implement a trade practices compliance program

significance | country of origin claims must be accurate

jewellery

Bevilles Jewellers

Canberra | 12 June 2007

conduct | use of two-price advertising involving comparison of its price with the recommended retail price (RRP) when the advertised products had never been sold at the RRP

undertaking | court enforceable undertakings to refrain from two-price advertising not supported by prior sales history, publish a corrective notice and implement a trade practices compliance program

significance | price-saving claims should accurately reflect a comparison between recent historical selling prices and advertised discounted prices

waste disposal

BIS Cleanaway Ltd

Brisbane | 3 October 2006

conduct | misleading or deceptive and unconscionable conduct relating to the signing up of customers to waste disposal contracts in Rockhampton

undertaking | court enforceable undertaking for trade practices compliance training

significance | businesses need to ensure that in their business dealings they adhere to the necessary standards of honesty and fair dealing

sander products**Black & Decker (Australia) Pty Ltd**

Melbourne | 12 September 2006

conduct | four types of sanding discs, designed for use with Black & Decker's multi-sander and detail sander products, were sold in packaging that contained an incorrect reference to their country of origin

undertaking | court enforceable undertaking to refrain from making false or misleading representations about the country of origin and the particular history and manufacturing processes of its products; take remedial action in relation to stock already held by resellers; and implement a trade practices law compliance program

significance | country of origin claims must be accurate

swimming aid**Brand Direct International Pty Ltd**

Brisbane | 9 October 2006

conduct | Brand Direct imported Maui-branded swimming aid vests that did not comply with the mandatory consumer product safety standard in that the intended body mass range was not marked on the vest and the warning was not in a colour contrasting with the background

undertaking | court enforceable undertaking to refrain from supplying any flotation toys or swimming aids that do not comply with relevant mandatory consumer product safety and information standards and implement a trade practices compliance program

significance | mandatory product safety and information standards must be adhered to

résumé service**Burnan Pty Ltd and Mr Keith PW Rolston**

Perth | 5 September 2006

conduct | concerns that in the sale and promotion of the business opportunities Burnan made various misleading representations

undertaking | court enforceable undertaking to cease making representations that persons who purchase the business opportunity will commence earning a specified amount per day immediately after training is completed; review its selling and advertising practices; request prospective purchasers to seek independent advice before entering into any agreement to purchase a business opportunity and implement a trade practices compliance program

significance | business promoters must provide complete and accurate information

**complementary
medicine**
Careline Group Pty Ltd

Canberra | 18 June 2007

conduct | Careline Australia Pty Ltd imported from New Zealand bulk supplies of squalene, propolis, omega 3 and royal jelly products in capsule form, which were then packaged into retail quantities and labelled 'made in Australia'. These products, traditionally used in Chinese medicine, were sold by Careline both in Australia and overseas

undertaking | court enforceable undertaking to remove any misrepresentations from existing stock; inform resellers and purchasers of the incorrectly labelled products; review advertising and promotional material to ensure that any representations comply with the Trade Practices Act and publish an article regarding country of origin claims in an appropriate Chinese publication

significance | country of origin claims must be accurate

sunglasses
Corpeyewear Pty Ltd and Mr Andrew Stokes

Brisbane | 27 June 2007

conduct | sold sunglasses that did not comply with mandatory product safety and information standards

undertaking | court enforceable undertaking to only supply products that comply with the relevant mandatory consumer product safety and information standard, corrective notices and implement a trade practices compliance program

significance | mandatory product safety and information standards must be adhered to

bedding
Domayne Pty Ltd

Hobart | 14 January 2007

conduct | misrepresented that its 'Domayne Essentials' down quilts contained 100 per cent duckdown or 95 per cent duckdown when they did not

undertaking | court enforceable undertaking to refrain in future from making any down content claims unless the claims can be substantiated, publish corrective notices, offer refunds and improve its trade practices compliance program

significance | representations regarding product attributes must be accurate

**automotive
electrical products**

Elecsposs Pty Ltd

Melbourne | 21 June 2007

conduct | misrepresented that its 'Condor Led Rear Combination Lamps' complied with national vehicle standards when they did not

undertaking | court enforceable undertaking to only supply products that comply with the relevant standard, quarantine all non-compliant lamps, undertake a product recall and implement a trade practices compliance program

significance | mandatory product safety and information standards must be adhered to

cosmetics

Environmental Marketing Pty Ltd

Adelaide | 16 August 2006

conduct | labels on the cosmetics did not have all of the ingredients listed as required by the mandatory product information standard, and this may also have been misleading if the ingredients not declared had been harmful or were detrimental to the environment

undertaking | court enforceable undertaking to only supply cosmetic products comply with the standard, corrective notice, that refunds and implement a trade practices compliance program

significance | mandatory consumer product safety and information standards must be adhered to

bunk beds

Eternal Design Pty Ltd

Melbourne | 14 January 2007

conduct | Eternal Design Pty Ltd distributed to retailers 94 bunk beds under the description 'Fantasy Bus' that did not comply with the mandatory product safety standard for bunk beds

undertaking | court enforceable undertaking to only supply bunk beds that comply with the mandatory consumer product safety standard, undertake a recall or modification of the bunk beds to ensure they meet the standard, write to consumers who have purchased the bunk bed and implement a trade practices compliance program

significance | mandatory product safety and information standards must be adhered to

bunk beds**Furniture Galore Pty Limited**

Melbourne | 10 January 2007

conduct | Furniture Galore Pty Ltd sold bunk beds to consumers under the description 'Fantasy Bus' which did not comply with the mandatory product safety standard for bunk beds

undertaking | court enforceable undertakings to only supply bunk beds that comply with the mandatory consumer product safety standard and implement a trade practices compliance program

significance | mandatory consumer product safety and information standards must be adhered to

**soft drink,
cordial and syrup
manufacturer****GlaxoSmithKline Australia Pty Ltd**

Canberra | 13 March 2007

conduct | GlaxoSmithKline Australia Pty Ltd had made certain representations about a number of Ribena products that may have been misleading or deceptive to consumers and GSK Australia undertook an internal review of its product labelling and product testing methods

undertaking | court enforceable undertaking that GSK Australia will not distribute or promote Ribena ready-to-drink products with claims of vitamin C content or that Ribena products contain more vitamin C than orange juice if claims cannot be substantiated; corrective notices and implement a trade practices compliance program; a variation to this undertaking was accepted by the ACCC on 13 June 2007

significance | representations regarding product attributes must be accurate

bicycles**Hagemeyer Asia Pacific Pty Limited**

Melbourne | 29 August 2006

conduct | bicycles that were supplied unassembled did not comply with the mandatory product safety standard for pedal bicycles

undertaking | court enforceable undertaking to recall the bicycles and provide customers in return with a bicycle of equivalent value that complies with the standard; to only supply bicycles that comply with the standard; and implement procedures aimed at ensuring that products it supplies in future are subject to mandatory product safety or information standards

significance | need to ensure that promotional items comply with mandatory product safety and information standards

air conditioning**Hagemeyer Brands Australia Pty Limited**

Sydney | 30 October 2006

conduct | making statements that particular Dimplex air conditioning products were 'environmentally friendly' when this is not correct; the statements concerned the environmental benefits of certain Dimplex air conditioning units containing the hydrofluorocarbon refrigerant, R407C gas; while R407C gas is less harmful to the environment than certain hydrofluorocarbon refrigerants, R407C gas is not considered 'environmentally friendly'

undertaking | court enforceable undertaking to refrain from making misleading representations that R407C gas or the air conditioning products that use R407C gas are environmentally friendly; corrective notices and implement a trade practices compliance program

significance | representations regarding product attributes must be accurate

bedding**Harris Scarfe Australia Pty Ltd**

Hobart | 4 September 2006

conduct | misrepresented that its 'Home Statements Signature Collection' down quilts contained 100 per cent white goosedown when they did not

undertaking | court enforceable undertaking to not make any percentage representations about the down content that it cannot substantiate; publish corrective notices; offer refunds and improve its trade practices compliance program

significance | representations regarding product attributes must be accurate

bedding**Home Express Nominees Pty Ltd**

Hobart | 19 September 2006

conduct | misrepresenting that 'Home Express' brand quilts contained 100 per cent goosedown or down when they did not

undertaking | court enforceable undertaking to not make any percentage representations about the down content that it cannot substantiate; publish corrective notices; offer refunds and implement a trade practices compliance program

significance | representations regarding product attributes must be accurate

**home
entertainment**
JB Hi-Fi Group Pty Ltd

Melbourne | 5 December 2006

conduct | two-price advertising used by home entertainment retailer JB Hi-Fi in catalogue advertising that may have misled consumers to believe that JB Hi-Fi, or its relevant market competitors had, within a reasonable time before the catalogue's issue, sold the products in reasonable quantities at the recommended retail price when this may not, in fact, have been the case

undertaking | court enforceable undertaking not to advertise any product with a discount off its RRP unless the product was advertised and sold at that price in the same markets, in reasonable quantities for a reasonable period of time and within a reasonable period of the date of the advertising and implement a trade practices compliance program

significance | price saving claims should accurately reflect a comparison between recent historical selling prices and advertised discounted price

waste disposal
Johns, Stephen Bernard

Brisbane | 3 October 2006

conduct | misleading or deceptive and unconscionable conduct relating to the signing up of customers to waste disposal contracts in Rockhampton

undertaking | court enforceable undertaking to attend trade practices compliance training

significance | businesses need to ensure that in their business dealings they adhere to the necessary standards of honesty and fair dealing

**mobile phone
retailers**
JV Mobile Pty Ltd

Melbourne | 26 April 2007

conduct | promoting and advertising its business network as a franchise and failing to provide JV Mobile Retailers with a disclosure document as required by the Franchising Code of Conduct

undertaking | court enforceable undertaking to formally structure all new agreements that are substantially similar to its existing agreements with JV Mobile Retailers as franchise agreements; implement a trade practices compliance program that includes complaints-handling procedures and practical trade practices training focusing on the franchising code, and place an article in a national newspaper outlining key rights and obligations under the franchising code

significance | franchisors must provide complete and accurate information

bedding**Legend Australia Holdings Pty Ltd**

Hobart | 5 September 2006

conduct | misrepresenting that its Logan & Mason 'Ultima' down-filled quilts contained 100 per cent goosedown when they did not**undertaking** | court enforceable undertaking not to make any percentage representations about the down content that it cannot substantiate; publish corrective notices and implement a trade practices compliance program**significance** | representations regarding product attributes must be accurate

air conditioners**LG Electronics Australia Pty Ltd**

Canberra | 20 September 2006

conduct | certain air conditioners are required to display energy efficiency labels and meet Minimum Energy Performance Standards (MEPS); check tests found that the energy efficiency of five LG air conditioners was less than 90 per cent of the claimed energy efficiency, and one air conditioner did not meet MEPS**undertaking** | court enforceable undertaking to offer eligible consumers rebates for the increased cost of electricity; only publish or advertise the energy efficiency rating of an air conditioner if an independent laboratory has tested the air conditioner according to the Australian Standard; corrective notices; write to LG retailers that purchased the affected models advising them of the rebate offer; review and upgrade its trade practices compliance program**significance** | representations regarding product attributes must be accurate

bedding**Linen House Pty Ltd**

Hobart | 25 July 2006

conduct | misrepresenting that own-brand 'Linen House' down-filled quilts contained 100 per cent goosedown when they did not**undertaking** | court enforceable undertaking not make any percentage representations about the down content that it cannot substantiate, publish corrective notices, offer refunds and implement a trade practices compliance program**significance** | representations regarding product attributes must be accurate

bicycles**Merja Pty Ltd**

Perth | 17 January 2007

conduct | Merja Pty Ltd, trading under the name Morley Cycles, engaged in misleading and deceptive conduct and made false representations during a 'Was/Now' advertising campaign, by specifying 'Was' prices for bicycles that Morley Cycles had not previously sold

undertaking | court enforceable undertaking not to make 'Was' pricing representations unless the 'Was' price was the usual price at which the item was sold in the previous three months; publish corrective notices; provide trade practices compliance training for staff and implement a corporate complaints-handling system

significance | price-saving claims should accurately reflect a comparison between recent historical selling prices and advertised discounted price

bedding**Pillow Talk Pty Ltd**

Hobart | 14 January 2007

conduct | misrepresenting that 'Pillow Talk Naturals' brand quilts contained 100 per cent goosedown when they did not

undertaking | court enforceable undertaking to refrain from making any down content claims unless the claims can be substantiated, publish corrective notices, offer refunds and implement a trade practices compliance program

significance | representations regarding product attributes must be accurate

bedding**Purax Feather Holdings Pty Ltd**

Hobart | 26 October 2006

conduct | misrepresenting that 'Puradown' and 'White Eider' brand quilts contained 100 per cent goosedown or duckdown when they did not

undertaking | court enforceable undertaking to not make any percentage representations about the down content that it cannot substantiate, publish corrective notices and implement a trade practices compliance program

significance | representations regarding product attributes must be accurate

pet food franchise **Scotty's Premium Pet Foods Franchising Pty Ltd and Scott, Suzanne**

Brisbane | 30 October 2006

conduct | the ACCC had concerns that Scotty's may have breached the Franchising Code of Conduct and acted unconscionably towards franchisees

undertaking | court enforceable undertaking that Scotty's will, for a period of 12 months, not issue any notice of breach unless the notice meets a number of requirements and that before issuing the notice Scotty's will obtain a solicitor's certificate certifying that the solicitor considers the proposed notice to comply with the code and that there is reasonable basis for issuing it; nominate a contact person, other than the principal, who can be contacted by the franchisees in relation to any disputes arising; not approach customers of an existing franchisee to supply them direct unless certain criteria apply

significance | businesses need to ensure that in their business dealings they adhere to the necessary standards of fair dealing

bedding **Sheridan Australia Pty Ltd**

Hobart | 12 July 2006

conduct | misrepresenting that its 'Sheridan Ultradown' geosedown quilts contained 100 per cent geosedown or down when they did not

undertaking | court enforceable undertaking not make any percentage representations about the down content that it cannot substantiate; publish corrective notices and upgrade its trade practices compliance program

significance | representations regarding product attributes must be accurate

bedding **Sleepmaster Pty Ltd**

Hobart | 6 October 2006

conduct | misrepresenting that Sleepmaster 'Jason' brand quilts contained '100% white goose down' when they did not, and misrepresenting that Sleepmaster 'Onkaparinga' brand quilts contained 'pure cotton' or '100% cotton fill' when they did not

undertaking | court enforceable undertaking to publish corrective notices, refunds, refrain from making any down or cotton content claims for its products unless the claims can be substantiated and implement a trade practices compliance program

significance | representations regarding product attributes must be accurate

dating service**Tsvetnenko, Eugeni Yurievich**

Perth | 11 October 2006

conduct | advertisements represented a service was a personal introduction and dating service, consumers could request to list their own profile, and that the maximum call cost was \$4.99; the ACCC believed these representations were misleading

undertaking | court enforceable undertaking not to advertise that dating or introduction services are provided, when that is not the case; not to advertise only part of the price of a service but rather advertise the total price, where there are additional costs or charges that apply not represent that customer profiles can be listed on dating or introductory services when there is no facility to list customer profiles

significance | product representations must be accurate and total price must be clearly stated

children's flotation toys**U. Games Australia Pty Ltd**

Sydney | 27 March 2007

conduct | U. Games Australia Pty Ltd imported and distributed 'Thomas & Friends' swimming armbands that did not comply with the mandatory product safety and information standards

undertaking | court enforceable undertaking to refrain from supplying any flotation toys or swimming aids that do not comply with the relevant mandatory consumer product safety and information standards; post in-store and website recall notices and implement a trade practices compliance program

significance | mandatory product safety and information standards must be adhered to

snack foods**Uncle Tobys Foods Pty Limited**

Canberra | 12 September 2006

conduct | the ACCC had concerns that representations made on the packaging and in a television advertisement for Roll-Ups were false or misleading

undertaking | court enforceable undertaking to publish an article for the food industry on the importance of accurate advertising, and will review and implement recommended changes to its trade practices law compliance program

significance | representations regarding product attributes must be accurate

mergers and asset sales

**promoting effective competition and informed markets
encouraging fair trading and consumer protection**

A primary aim of the ACCC is to encourage competitive market structures and informed behaviour. The Mergers and Asset Sales Branch supports this objective through its work in the assessment of mergers, acquisitions, asset sales and certain collaborative arrangements under ss. 50 and 45 of the Trade Practices Act.

This work includes:

- > promoting the development and maintenance of competitive market structures by promptly assessing mergers, acquisitions, asset sales and collaborative joint ventures
- > instigating appropriate enforcement action for mergers considered to contravene s. 50, and providing appropriate assistance to the Australian Competition Tribunal in relation to clearance reviews and merger authorisations being considered by it
- > educating the public, business and its advisers on the role of the ACCC and its merger review processes, and publicising the ACCC's merger decisions.

The ACCC seeks to minimise uncertainty and risk for business and consumers through fair, predictable and consistent processes, and to be flexible in its strategies for improving market outcomes. On 1 July 2006 the *Merger review process guidelines* issued by the ACCC came into effect, replacing the *Guideline for informal merger review*. The process guidelines refine and expand on the processes followed by the ACCC when considering mergers and acquisitions. Key changes to the guidelines include expansion of the types of mergers (including confidential proposals) for which the ACCC provides procedural guidance, clarification of the processes applied to different types of mergers that the ACCC will review, and clearer indicative timelines for informal reviews. In January 2007 new legislation came into effect prescribing a formal merger clearance process and changes to the merger authorisation process that involve new roles for both the ACCC and the tribunal. On 1 January 2007 the ACCC issued the *Formal merger review process guidelines* to outline the approach the ACCC will take in assessing applications for formal clearances and the requirements on applicants for such clearances.

The ACCC also aims to improve market processes more generally by:

- > providing information to the market to limit imbalances in information
- > liaising with other regulators (for example through the ICN merger work group and the Cooperation Protocol for Merger Review between the ACCC and the New Zealand Commerce Commission), business and consumer associations
- > speaking to the public and participating in meetings and conferences
- > helping our overseas trading partners to develop and implement effective merger regimes.

Tim Grimwade, general manager, mergers and asset sales branch

assessing mergers, asset sales and joint ventures

The Trade Practices Act prohibits mergers, acquisitions and joint ventures that would substantially lessen competition, and is aimed at preventing businesses accumulating market power that could lead to anti-competitive conduct. The test applied by the ACCC rests on recognition of the link between market structure and unilateral or coordinated market power.

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

<p>performance indicator</p> <p>publicise merger and authorisation decisions, arbitrations, undertakings and access arrangements and monitoring activities and inquiry findings</p>	<p>> issued 59 media releases on mergers; all public merger decisions for 2006–07 were published on the ACCC website</p>
<p>performance indicator</p> <p>assess the competition effects of mergers, acquisitions and asset sales</p>	<p>> conducted 390 merger reviews, for compliance with s. 50 of the Trade Practices Act; 25 were either withdrawn or would no longer be proceeding before a final decision was made; 6 were publicly opposed outright following the ACCC's review; 8 were resolved during their review with court enforceable undertakings; and 5 variations to undertakings were considered; of 194 matters considered on a confidential basis, 11 were opposed or had concerns expressed confidentially; no formal clearance or merger authorisation applications were made</p>

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

those publicly opposed were

- > Barloworld Limited's proposed acquisition of Watty Limited
- > Tabcorp Holdings Limited's proposed acquisition of UNITAB Limited
- > Origin Energy Limited's proposed acquisition of Sun Gas
- > Healthe Care Australia Pty Ltd's proposed acquisition of Brisbane Waters Private Hospital from Healthscope Limited
- > Santos Limited's proposed acquisition of Queensland Gas Company Limited
- > ThoroughVisioN and Sky Group's proposed joint venture

those not opposed included

- > Woolworths Limited's proposed acquisition of Jindabyne IGA Supermarket, Festival IGA Liquor and Porter's Liquor Licence
- > Transurban Group Limited's proposed acquisition of Sydney Roads Group Limited
- > AGL Energy and TruEnergy Pty Ltd's proposed swap of South Australian electricity generation assets
- > Pacific Magazines Pty Ltd's proposed acquisition of certain magazine titles of Time Inc. Magazine Company Pty Ltd and IPC Media Australia Holdings Pty Ltd
- > News Limited's proposed acquisition of certain community-style newspapers and magazines of FPC Community Media Group
- > Consortium including Macquarie Bank Limited—proposed acquisition of Qantas Airways Limited

those resolved during their review by court enforceable undertakings were

- > Australian Gas Light Company and Great Energy Alliance Corporation Pty Ltd's acquisition of Loy Yang (replacement undertakings)
- > Alinta Limited and the Australian Gas Light Company's joint merger/demerger proposal
- > Alinta Limited's acquisition of a further interest in Australian Pipeline Trust
- > Linde AG's proposed acquisition of the BOC Group plc
- > ABC Learning Centres Limited's proposed acquisition of Hutchison's Child Care Services Limited
- > Johnson & Johnson's proposed acquisition of Pfizer Inc.'s consumer health care business
- > Fairfax Media Limited's proposed acquisition of Rural Press Limited
- > OneSteel Limited's proposed acquisition of Smorgon Steel Group Limited

mergers and joint ventures

	this year 06–07	last year 05–06	04–05
total ¹	390	272	189
not opposed ^{1, 2}	365	261	178
opposed outright ¹	17	5	2
resolved during review through undertakings	8	6	9

1 includes confidential reviews

2 includes reviews not opposed, reviews withdrawn before a decision was made, and reviews of variations to undertakings.

Mergers, acquisitions and asset sales were assessed for their compliance with s. 50 of the Act. In total 390 reviews were conducted with six matters being publicly opposed (11 where confidential opposition or concerns were expressed) and eight being allowed to proceed after the acceptance of undertakings to address competition concerns. During the past financial year some of the more substantial mergers the ACCC considered fell within the transport, energy and media sectors.

The ACCC worked with overseas competition authorities, particularly through its active participation in the **International Competition Network (ICN)**, a global forum through which individual national competition agencies are able to liaise on common issues. The ACCC is a member of the steering committee of the ICN and its working groups, including those dealing with merger notification and procedures and merger analysis and investigative techniques.

statement of issues

If the ACCC comes to a preliminary view that a proposed merger raises competition concerns that require further investigation, it may release a statement of issues outlining the basis and facts on which the ACCC has reached this view. This process is aimed at increasing the transparency of the informal review process. It allows for obtaining further information that may alleviate (or potentially) reinforce the concerns of the ACCC and/or provide an opportunity to consider any undertakings submitted by the merger parties to resolve competition concerns. In 2006–07 the ACCC released 17 statements of issues.

public competition assessments

To improve the handling of matters, and provide an enhanced level of transparency in its decision making, the ACCC provides a public competition assessment outlining how it reached its final conclusion on a transaction proposal if:

- > a merger is rejected
- > a merger is subject to enforceable undertakings
- > the merger parties seek such disclosure
- > a merger is approved but raises important issues that the ACCC considers should be made public.

Public competition assessments aim to provide the market with a better understanding of the ACCC's analysis of various markets and associated merger and competition issues. Assessments will also alert the market if the ACCC is changing, or is likely to change, its assessment of the competitive conditions in particular markets because of, for example, technological developments or previous mergers in those markets. In 2006–07 the ACCC released 25 public competition assessments.

major merger reviews included

OneSteel Limited's proposed acquisition of Smorgon Steel Group Limited

result | acquisition not opposed subject to s. 87B undertaking

summary | On 7 June 2007 the ACCC announced its decision not to oppose the proposed acquisition of Smorgon Steel Group Limited by OneSteel Limited, after OneSteel provided court enforceable undertakings to the ACCC. The ACCC expressed concern that, in the absence of effective import competition, the proposed acquisition would remove the only source of domestic competition in the vast majority of steel long product markets and was therefore likely to lead to a substantial lessening of competition. The ACCC had concerns in relation to the ability of imports to constrain the merged entity due to the potential impact of future anti-dumping applications.

In light of these concerns, OneSteel offered a s. 87B undertaking as a means of addressing the ACCC's concerns. The key feature of the undertaking was that for a period of at least five years OneSteel undertook to compensate importers that incurred expenses or losses as a result of unsuccessful anti-dumping applications. The ACCC formed the view that the undertaking was likely to act as an appropriate discipline on OneSteel's incentives to make speculative anti-dumping applications that would be likely to disrupt import competition. Accordingly, the ACCC accepted the undertaking offered by OneSteel and did not oppose the proposed acquisition. On 22 June 2007 the ACCC issued a public competition assessment on its decision.

Fairfax Media Limited and Rural Press Limited

result | acquisition not opposed subject to s. 87B undertaking

summary | On 18 April 2007 the ACCC announced its decision not to oppose the proposed acquisition of 100 per cent of the shares in Rural Press Limited by Fairfax Media Limited after Fairfax provided court enforceable undertakings to the ACCC. The ACCC considered that, following the offer of a s. 87B undertaking by Fairfax, the proposed acquisition would be unlikely to substantially lessen competition in any of the relevant markets. The undertaking accepted by the ACCC required Fairfax to divest the two community newspapers it published in Newcastle and the Hunter Valley (pre-acquisition) within a fixed period. An independent manager was appointed to manage the newspapers until they were sold and, if Fairfax was unable to sell the newspapers in the relevant period, a divestiture agent would be appointed to effect divestiture of the newspapers. On 27 April 2007 the ACCC issued a public competition assessment on its decision.

Toll Holdings Ltd—fifth variation of s. 87B undertakings

result | variation to s. 87B undertakings accepted

summary | On 18 April 2007 the ACCC accepted a fifth variation to the s. 87B undertakings originally offered by Toll Holdings Ltd to the ACCC in March 2006. The variation was a result of Toll's planned restructure of its group businesses. The restructure was proposed by Toll to involve the creation of a new listed company, Asciano Limited, and the transfer of the assets, entities and/or businesses that comprised Toll's infrastructure assets, including Pacific National, to this company. The fifth variation amended Toll's undertakings so that, if the restructure of the Toll business occurs and if certain preconditions are met, Toll is relieved of previous undertaking obligations to divest 50 per cent of Pacific National, the vehicle transport business and the PrixCar interest. If the restructure does not occur, or the preconditions are not met, Toll's obligations will not be waived and it is still required to carry out the divestments pursuant to the original undertakings.

The obligations in the original undertakings to make available certain east-west rail assets and not to discriminate in the operation of Pacific National or Patrick's container terminals remain in place and are assumed by Asciano if the restructure occurs. Further, if the restructure occurs, Toll and Asciano become subject to new obligations to ensure the separation of the two companies.

The ACCC's decision to consent to a waiver of Toll's obligations is given effect through several documents: a variation to Toll's undertakings; a new undertaking from Asciano new undertakings from the directors of Toll and Asciano; and a side letter signed by both parties detailing the intended operation of certain aspects of the undertakings. On 18 April 2007 the ACCC issued a press release providing a detailed outline of the changes.

Santos Limited—proposed acquisition of Queensland Gas Company Limited

result | acquisition opposed

summary | On 20 February 2007 the ACCC announced its decision to oppose the proposed acquisition of Queensland Gas Company Limited (QGC) by Santos Limited (Santos). After conducting inquiries with industry participants, the ACCC formed the view that the proposed acquisition, even in light of proposed undertakings—which involved the divestiture of certain assets and the establishment of a competitor, NewCo—was likely to substantially lessen competition for the wholesale supply of gas, particularly in southern Queensland. The ACCC took into consideration information provided by Santos, QGC and many other market participants, including customers, competitors, gas aggregators and pipeline operators and developers. On 7 March 2007 the ACCC issued a public competition assessment on its decision.

Consortium including Macquarie Bank Limited—proposed acquisition of Qantas Airways Limited

result | acquisition not opposed

summary | On 1 March 2007 the ACCC announced its decision not to oppose the proposed acquisition of Qantas Airways Limited by the consortium represented by Airline Partners Australia Ltd, of which Macquarie Bank Limited was a part, after extensive market inquiries. The market inquiries revealed a range of possible competition issues arising from the interests of APA consortium members, such as aeronautical services, domestic and international air passenger services, aircraft leasing services, airline catering, the manufacture and supply of aircraft parts, and ticket reservation and booking distribution services. The ACCC found there was no likely substantial lessening of competition in each of these cases, considering the restrictions on related party transactions under the APA consortium and the level of competition in the relevant markets.

The ACCC also closely reviewed whether Macquarie Bank's partial direct and indirect interests in Qantas and Sydney airport could lead to discrimination in favour of Qantas by Sydney airport management that could adversely affect competition in downstream aviation markets. The ACCC's assessment indicated that there was a level of influence by Macquarie Bank over Sydney airport, but that this influence was somewhat mitigated by a series of regulatory and corporate constraints. On the basis that Macquarie Bank may have some ability to influence Sydney airport, the ACCC explored several potential discrimination scenarios in depth with market participants. The ACCC recognised that Sydney airport could already exercise a level of market power and can discriminate between airlines for its own commercial reasons.

Ultimately, it appeared from the ACCC's extensive market inquiries that there were no clear incentives for Macquarie Bank to try to facilitate increased discrimination in favour of Qantas. The ACCC therefore considered that APA's proposed acquisition was unlikely to give rise to a substantial lessening of competition.

Health Care Australia Pty Ltd—proposed acquisition of Brisbane Waters Private Hospital from Healthscope Limited

result | acquisition opposed

summary | On 13 December 2006 the ACCC announced its decision to oppose Health Care Australia Pty Ltd's proposed acquisition of Brisbane Waters Private Hospital. The ACCC found that the proposed acquisition would be likely to substantially lessen competition in the supply of private hospital services to patients in the Gosford area. In particular, the ACCC's concerns related to the potential for the quality of private hospital services to diminish. Market inquiries found that treating doctors played a significant role in ensuring that patients received a high standard of care from private hospitals. The ACCC considered that competition existed between Health's North Gosford hospital and Brisbane Waters to attract doctors and that they could use that competitive situation to benefit the standard of care for their patients. The ACCC considered that this competitive tension would be likely to cease if Health owned both private hospitals.

The ACCC had concerns that the proposed acquisition would be likely to result in a reduction in the range and quality of services currently offered at North Gosford and Brisbane Waters, resulting in patients having to travel further to receive treatment. On 22 January 2007 the ACCC issued a public competition assessment on its decision. The ACCC did not oppose Health's proposed acquisition of four other hospitals that were the subject of the sales agreement between Healthscope and Health.

Barloworld Limited—proposed acquisition of Wattyl Limited

result | acquisition opposed

summary | On 6 July 2006 the ACCC announced its decision to oppose the proposed acquisition of Wattyl Limited by Barloworld Limited.

After conducting a comprehensive investigation and making inquiries among industry participants, the ACCC formed the view that the proposed acquisition was likely to substantially lessen competition for the manufacture and supply of architectural and decorative (A&D) paints in Australia.

Wattyl and Barloworld were the second and third largest suppliers of A&D paints in Australia, and the merged firm would account for more than half of total sales. The merged firm and Orica, which was the largest supplier, would together account for approximately 90 per cent of A&D paint sales.

Market inquiries demonstrated that Barloworld and Wattyl vigorously competed for second position in the market and were each other's main competitors, but were also clearly competing with the market leader, Orica. The proposed acquisition was likely to remove this competition and lead to increased prices for consumers.

The ACCC considered Barloworld's proposal to divest certain Bristol assets—as well as other submissions made by Barloworld—following the ACCC's publication of its statement of issues in March 2006. After wide consultation among industry participants, the ACCC formed the view that Barloworld's divestiture proposal was not sufficient to resolve the ACCC's competition concerns. On 11 August 2006 the ACCC issued a public competition assessment on its decision.

Alinta Limited and the Australian Gas Light Company—merger/demerger proposal; Alinta Limited—acquisition of further interest in Australian Pipeline Trust

result | acquisition not opposed subject to s. 87B undertaking

summary | On 3 August 2006 the ACCC decided not to oppose a joint merger proposal between the Australian Gas Light Company and Alinta Limited. The proposal involved a merger and subsequent demerger of the assets of Alinta and AGL. Broadly speaking, Alinta was to take control of regulated assets and AGL, the 'market' assets.

The concerns in the proposal arose principally in relation to the aggregation of ownership and operating interests in gas pipelines in New South Wales and Western Australia. In particular, the ACCC was concerned about the prospect of horizontal aggregation of control and operation interests in the eastern gas pipeline and the Moomba to Sydney pipeline (MSP) as well as horizontal aggregation of interests in the Dampier to Bunbury natural gas pipeline and the Parmelia pipeline. Any aggregation of ownership or control of transmission pipelines that supply a city is considered very closely by the ACCC for competition effects.

On 3 August 2006 the ACCC decided not to oppose the transaction on the basis of a s. 87B undertaking to divest Alinta's interests in the Australian Pipeline Trust (APT)—the owner of the MSP and Parmelia pipeline—that it had acquired from AGL. Alinta also committed to divest AGL's contracts for the supply of management and operational services to the MSP and Parmelia pipeline.

Subsequently Alinta put forward a replacement undertaking that would permit Alinta to retain the interest it had acquired in APT from AGL (and a further interest it had acquired on the Australian Stock Exchange) in the event that APT chose to sell, within a certain timeframe, the MSP and Parmelia pipelines, as well as GasNet (which APT had acquired in the interim period). Taking into consideration further detailed undertakings to hold separate the interest in APT, the ACCC accepted this undertaking on 27 November 2006. On 9 January 2007 the ACCC issued a public competition assessment on its decision.

adjudication

**promoting effective competition and informed markets
encouraging fair trading and consumer protection**

A key objective of the Trade Practices Act is to prevent anti-competitive arrangements or conduct, thereby encouraging competition and efficiency in business, resulting in greater choice for consumers in price, quality and service.

The Act, however, allows protection to be afforded to arrangements or conduct that might otherwise raise concern under the competition provisions, where parties can demonstrate that the arrangements or conduct is in the public interest. Businesses may obtain protection by applying to the ACCC for an **authorisation** or lodging **exclusive dealing** or **collective bargaining notifications**.

In 2006–07 the Adjudication Branch continued to focus on its core function of assessing public interest immunity through the authorisation and exclusive dealing notification processes. The branch also devoted resources to ensuring the smooth implementation of the collective bargaining notification process and other legislative changes that came into operation on 1 January 2007.

The ACCC has responded to numerous inquiries and attended meetings about collective bargaining in a number of industries. The ACCC did not receive any small business collective bargaining notifications in the first half of 2007, but anticipates notifications to be lodged in the second half.

Significant matters for the year include an Australian Competition Tribunal decision relating to the Medicines Australia authorisation application, the ACCC's draft determination on the proposed arrangements between Qantas and Air New Zealand (subsequently withdrawn by the airlines) and the timely consideration of the Port Waratah Coal Services Limited interim authorisation application.

The branch continues to successfully apply the three guiding principles of its work—timeliness, consistency and transparency.

Over the past year the ACCC has continuously improved its timeliness in dealing with authorisation applications. The introduction of a six-month timeframe for authorisation decisions in January 2007 will build on these gains.

To enhance the consistency and transparency of its adjudication responsibilities, the ACCC finalised a suite of publications dealing with authorisation, exclusive dealing notifications and collective bargaining notifications during the 2006–07 financial year.

Maintaining guidelines is part of the branch's wider role in supporting the ACCC's objectives of promoting effective competition and informed markets and ensuring fair trading. The branch continues to provide information to business and consumer organisations and the general public on the ACCC's adjudication functions. The ACCC continues to ensure that all applications and ACCC decisions are available on its website and that the matters it considers are in the public domain.

Scott Gregson, general manager, adjudication branch

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator publicise merger and authorisation decisions, arbitrations, undertakings and access arrangements and monitoring activities and inquiry findings	<ul style="list-style-type: none">> issued 57 media releases on authorisation and notification decisions
performance indicator adjudicate authorisation applications (where anti-competitive behaviour is claimed to deliver public benefits)	<ul style="list-style-type: none">> made 36 final determinations on authorisation matters and received 38 new authorisation matters> received 694 notifications for exclusive dealing, the majority of which concerned third line forcing; and issued 2 notices to revoke and 2 draft notices to revoke relating to exclusive dealing notifications

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

authorisation applications

Under the authorisation process, in response to an application, the ACCC can grant immunity for potential breaches of most of the competition provisions of the Act if it is satisfied the conduct delivers a net public benefit. The process is open and transparent, involving public registers, consultation with interested parties and the publication of draft determinations.

	authorisation applications	minor variation applications	revoke and substitute authorisation applications	revocations	total	last year
opening balance	8 (16)	2 (2)	3 (6)	0 (0)	13 (24)	25 (43)
new applications	17 (31)	4 (4)	9 (17)	8 (8)	38 (60)	26 (44)
applications withdrawn	3 (7)	3 (3)	0 (0)	0 (0)	6 (10)	3 (6)
applications decided	15 (24)	3 (3)	11 (21)	7 (7)	36 (55)	35 (57)
balance	7 (16)	0 (0)	1 (2)	1 (1)	9 (19)	13 (24)

Note: Figures in brackets indicate total applications; figures without brackets indicate numbers of projects (i.e. some projects involve multiple applications).

notifications

The exclusive dealing notification process provides immunity for potential breaches of the exclusive dealing provisions of the Act. It differs from the authorisation process in that immunity does not depend on a decision by the ACCC. Lodging a notification provides automatic immunity from the date it is lodged with the ACCC (or soon after in the case of third line forcing conduct) and remains in force unless revoked by the ACCC. Again, the process is open and transparent with notifications placed on a public register. When considering the revocation of a notification, the ACCC is required to consult interested parties and to provide a draft decision document setting out the reasons it is considering revocation.

	this year	last year
new notifications	694	1099*
notifications withdrawn	9	6
notifications revoked	2	0

* Discrepancy with the ACCC's 2005–06 annual report following database reconciliation.

While most of new notifications received have been allowed to stand, certain matters are still being considered by the ACCC. Notifications may be reviewed at any time.

applications for review by the Australian Competition Tribunal

Decisions under the authorisation process and decisions to revoke either exclusive dealing or collective bargaining notifications may be reviewed by the Australian Competition Tribunal.

	this year	last year
opening balance	0	2
new applications	2	0
applications withdrawn	1	0
applications decided	1	2
balance	0	0

Two new appeals were lodged with the tribunal within the last financial year. It heard and made a decision relating to the Medicines Australia application for revocation and substitution of an authorisation covering a code of conduct. Nestlé Australia Limited lodged an application with the tribunal for review of the giving of a notice to revoke a notification relating to the supply of soluble coffee products. The application for review was later withdrawn.

certification trademarks

ACCC approval is required before certification trademarks can be registered under the *Trade Marks Act 1995*. Consistent with its role in enforcing the Trade Practices Act, the ACCC assesses whether CTM applications and rules raise consumer protection, competition or associated concerns.

	this year	last year
opening balance	14	24
new applications	30	21
applications withdrawn	2	4
applications decided	30	27
balance	12	14

selected finalised authorisations

Consistent with trends in recent years, the ACCC has been asked to make a high number of decisions relating to authorisation matters.

Collective bargaining arrangements comprised a significant proportion of these decisions. This reflects business' growing awareness of the authorisation process for collective bargaining arrangements that deliver public benefits, often through facilitating increased input into contracts.

Also undertaken during 2006–07 were a number of ACCC and applicant-initiated revocations relating to fairly longstanding authorisations on fee guides and pricing structures. These revocations included authorisations previously granted to the Australian Institute of Building, Retail Liquor Stores Association, South Australian Mixed Business Association, Retail Grocers and Storekeepers Association of Western Australia, Queensland Retail Traders and Shopkeepers Association, Service Station Association and Retail Confectionary and Mixed Business Association.

collective bargaining

Container Logistics Action Group A30242

result | 5 July 2006 | granted authorisation until 27 July 2011

background | authorisation to allow the Container Logistics Action Group to collectively negotiate on behalf of its present and future members with the stevedores at Port Botany. Matters for negotiation relate to access to the terminal and the terms, prices and conditions of a range of services supplied by the stevedores.

Association of Australian Bookmaking Companies A30243

result | 19 July 2006 | granted authorisation until 31 August 2011

background | authorisation to allow the Association of Australian Bookmaking Companies to collectively bargain with racing control bodies to obtain approval for its members to publish and use race field information, and to collectively bargain with sporting organisations to obtain approval to publish and use information relating to that sport.

Coalition of Major Professional Sports A91007

result | 13 December 2006 | granted authorisation until 28 February 2009

background | authorisation to allow the Coalition of Major Professional Sports, on behalf of its members, to enter into collective bargaining negotiations with licensed sports betting operators.

Victorian Potato Growers Council A91048

result | 27 June 2007 | granted authorisation until 31 July 2012

background | authorisation to allow the Victorian Potato Growers Council to represent its current and future members in collective negotiations with potato buyers. The authorisation process was completed in two months and involved the waiving of fees under new provisions.

industry association arrangements

Real Estate Institute of Western Australia A91026

result | 18 April 2007 | granted authorisation until 18 April 2012

background | authorisation in respect of the arrangements contained in the Real Estate Institute of Western Australia's articles of association, members' code of practice, auction code of conduct, multiple listing service by-laws and the agreement to make standard exclusive agency agreements available for use.

Agsafe Limited A91027–30

result | 6 June 2007 | granted authorisation until 29 June 2010

background | application for revocation and substitution of authorisations allowing Agsafe to enforce its code of conduct, which includes the ability of Agsafe to impose trading sanctions.

Motor Trades Association of Australia Limited A91025

result | 6 June 2007 | granted authorisation until 30 June 2012

background | authorisation to allow the Motor Trades Association of Australia Limited to proceed with the development and promotion of a times guide for smash repairs.

infrastructure

Port Waratah Coal Services Limited A91033–35

result | 23 May 2007 | granted authorisation until 31 December 2007

background | application for revocation and substitution of authorisations allowing Port Waratah Coal Services Limited to enforce its medium-term capacity balancing system. This is designed to address the imbalance between the demand for coal-loading services at the Port of Newcastle and the capacity of the Hunter Valley coal chain. Interim authorisation was provided within 15 days of receipt.

Aviation

Qantas Airways Limited and Air New Zealand Limited A91001–03

result | 17 November 2006 | application withdrawn

background | Qantas Airways Limited, Air New Zealand Limited and their subsidiaries sought authorisation of a Tasman networks agreement to allow the coordination of activities of any flight operated on the 'trans-Tasman network'. The application was withdrawn following a draft decision proposing to deny authorisation.

Qantas Airways Limited A40107–09

result | 13 September 2006 | granted authorisation until 5 October 2011

background | authorisation to allow Qantas Airways Limited and its subsidiaries to form a cooperation agreement with Orangestar Investment Holdings Pty Ltd to coordinate their flying operations and activities.

International Air Transport Association A90855

result | 9 November 2006 | granted authorisation until 30 June 2008

background | authorisation in respect of the International Air Transport Association's cargo agency, scheduling, prorata, clearing house and services (passenger and cargo), and tariff (passenger and cargo) systems. Following a lengthy review of a longstanding authorisation, the ACCC agreed to a transition authorisation to allow a narrowing of protection provided and, where necessary, consideration of redesigned arrangements.

Medicines Australia Incorporated A90994–96

result | 27 June 2007 | granted authorisation until 27 June 2012

background | application for revocation and substitution of authorisations relating to Edition 14 of Medicines Australia's code of conduct and their substitution with authorisations in respect of Edition 15 of the code of conduct.

On 26 July 2006 the ACCC granted authorisation for three years to Medicines Australia. The authorisation included a condition requiring Medicines Australia to publicly report details about all educational events sponsored by pharmaceutical companies. Medicines Australia applied to the Australian Competition Tribunal for a review of the ACCC determination. The tribunal released its determination on 27 June 2007, affirming the ACCC determination, subject to minor amendments to the condition of authorisation, and granted authorisation to the code for five years.

Royal Australasian College of Surgeons A91013

result | 14 December 2006 | granted authorisation until 22 July 2007

background | ACCC-initiated revocation and substitution of authorisation to the Royal Australasian College of Surgeons, removing immunity for the college's training functions. Authorisation for other college activities—the accreditation of hospitals and hospital posts, and the assessment of overseas trained surgeons—remained in place until 22 July 2007.

Canberra After Hours Locum Medical Service A91011

result | 17 January 2007 | granted authorisation until 30 June 2008

background | application for revocation and substitution of an authorisation concerning a capped fee structure used in the provision of after-hours primary medical care in the Australian Capital Territory.

Royal Australian College of General Practitioners A91024

result | 23 May 2007 | granted authorisation until 14 June 2011

background | application for revocation and substitution of an authorisation by the Royal Australian College of General Practitioners to allow general practitioners in certain business structures to agree on patient fees and to collectively negotiate the fees they charge as visiting medical officers to hospitals.

Major notifications of exclusive dealing

The ACCC received 694 exclusive dealing notifications in 2006–07, the majority of which concerned third line forcing. While most notifications are allowed to stand, the ACCC assesses each notification and consults more broadly on notifications that raise apparent concern. Where the ACCC considers conduct to fall short of the relevant public interest test, it ultimately moves to revoke notifications.

The ACCC consulted on a number of notifications this year, including on notifications lodged by O'Dwyer Horseshoe Sales Australia Pty Ltd, Anaesthesia Systems Pty Ltd, ResMed Asia Pacific Limited, Acacia Ridge Interstate Terminal, Metcash Trading Limited and AHL Investments Pty Limited.

The ACCC also issued two draft and two final decisions to revoke notifications this year.

draft notices to revoke

Seal-A-Fridge Pty Ltd & Others N50196–N50199 and N92676

result | 23 May 2007 | draft notice to revoke issued

background | The notifications detail an arrangement whereby Seal-A-Fridge franchisees are required to acquire PVC extrusion and flexible magnet products from Seal-A-Fridge Pty Ltd or from nominated approved suppliers. The ACCC continues to consider these notifications.

GeelongPort Pty Limited N92776

result | 28 June 2007 | draft notice to revoke issued

background | GeelongPort Pty Ltd lodged a notification whereby it proposed to provide access to Lascelles Wharf in Geelong Port on condition that potential port users use Geelong Port's figee cranes, when available, for the purpose of unloading fertiliser and other dry bulk cargoes. The ACCC continues to consider this notification.

final notices to revoke

Nestlé Australia Limited N31488

result | 3 August 2006 | final notice to revoke issued

background | Nestlé Australia Limited lodged a notification in relation to the supply of NESCAFE BLEND 43 coffee and other Nestlé Australia products to ALDI stores. The ACCC issued a draft notice on 3 April 2006 proposing to revoke the notification. A final notice to revoke the notification was issued to Nestlé on 3 August 2006. Nestlé requested a tribunal review, but withdrew that request before the hearing commenced.

Australian Baseball Federation Inc. N90853

result | 1 September 2006 | final notice to revoke issued

background | The Australian Baseball Federation Inc. lodged a notification in respect of the ABF's merchandise licensing program. Under the program, the ABF requires players, clubs, regional associations and state and territory associations to acquire uniform components and baseballs from licensed third party suppliers. A final notice to revoke the notification was issued by the ACCC on 1 September 2006 and the notification ceased to be in force on 1 April 2007.

regulatory affairs

regulate infrastructure service markets and other markets where competition is restricted

The ACCC and the AER have roles in promoting competition in network industries: communications, energy, post and transport. The ACCC is also involved in monitoring prices of selected goods and services. The products and sectors monitored are diverse. The nature and purpose of the monitoring is different. For the first time this year, for example, the ACCC examined prices paid to farmers for livestock and the prices that Australian consumers are paying for red meat.

Prices oversight and regulatory arrangements to secure third-party access to 'essential' services are necessary to curb the market power of monopoly infrastructure. Administering access regimes for monopoly infrastructure assets is a major area of regulation.

Depending on the infrastructure industry and the nature of the specific regime, access regulation can involve determining which services should be subject to access regulation, determining conditions of access, considering access undertakings and/or arbitrating terms and conditions in access disputes.

Access regulation is used as a means to an end—to promote competition and to encourage new entrants into what is the contestable part of the market: freight services over the rail track, and telephone services over the copper wires. To be sustainable, the access regime must credibly satisfy the demands of both consumers and investors and be procedurally fair while at the same time providing incentives for efficiency.

2006–07 was a period of new direction and of continuity:

- > The first arbitration under Part IIIA was notified in November 2006 when Services Sydney notified the ACCC of a dispute regarding the methodology of pricing access to Sydney Water's declared sewage transportation services.
- > In contrast, the 100th arbitration under telecommunications—Part XIC of the Trade Practices Act and the *Telecommunications Act 1997* was notified during this period.
- > In response to a request from the Australian, New South Wales, Victorian and South Australian governments, the ACCC analysed irrigation water delivery fees. The resulting report developed a consistent inter-jurisdictional framework for the use of access and termination fees to be charged by irrigation operators. Involvement in the water infrastructure industry is a new area of activity for the ACCC.
- > New issues relating to the impact of technical convergence on the communications market were examined.
- > The consolidation of the role of the AER as a legal entity within the ACCC continued. In addition to its responsibilities in the electricity market and for the economic regulation of transmission, a number of other functions are due to be transferred to the AER from the ACCC and jurisdictional regulators. The transfer process has been slower than anticipated and the revised date for the transfer is now 31 December 2007.

It has been more than 10 years since the implementation of the competition policy reforms and the ACCC is looking ahead to understand how future trends will affect the practice of regulation. Regulatory regimes in Australia and in most OECD countries have been subject to frequent review and there has been both continuity and change—in other words, an evolution of regulation. Understanding this evolution and what it may mean for future regulatory practices will be the theme for the July 2007 regulatory conference. It is also a theme that will be explored by the ACCC over the next few years as we continue to refine and improve our regulatory processes.

Joe Dimasi, executive general manager, regulatory affairs division

energy

The AER is Australia's national energy market regulator. It was established within the ACCC and commenced operation on 1 July 2005.

Responsibility for regulation of electricity and gas transmission businesses is shared between the AER and the ACCC. The ACCC retains responsibility for regulatory decisions under the National Third Party Access Code for Natural Gas Pipeline Systems (the Gas Code) pending the introduction of the new National Gas Law (NGL) and National Gas Rules (NGR) after which this role will be undertaken by the AER. Responsibility for administration of Part VII (authorisations and notifications) provisions in respect of energy businesses is the function of the ACCC. The AER assists the ACCC in this function.

The AER functions include (or will include):

- > monitoring compliance with the NEL, NER and the regulations by registered participants and other persons
- > investigating breaches or possible breaches of provisions of the NEL and NER and instituting and conducting enforcement proceedings against registered participants and other persons
- > monitoring the wholesale electricity market
- > economic regulation of electricity transmission and distribution service providers (except in Western Australia and the Northern Territory)
- > economic regulation of gas transmission and distribution service providers (except in Western Australia)
- > regulation of retail markets, to the extent determined by the MCE.

The transfer of relevant functions from the ACCC and jurisdictional regulators to the AER is not yet complete.

An amended Australian Energy Market Agreement was concluded on 2 June 2006. The amended agreement provides for the transfer of economic regulation of gas transmission networks and gas and electricity distribution networks. The MCE announced that the revised date for the transfer is 31 December 2007. In the interim, the AER assists the ACCC in undertaking the gas transmission regulatory functions that will ultimately be transferred to the AER, including approval of access arrangements, applications for approval of associate contracts, approval of annual tariff changes within an access arrangement period and gas transmission ring-fencing compliance reporting.

The AER will continue to work closely with jurisdictional regulators to ensure a smooth transfer of the economic regulation of distribution network functions to the national framework. Energy retail regulation (to the extent determined by the MCE) is scheduled to be transferred to the AER from 1 July 2008. The AER also assists the ACCC with energy competition matters, including merger issues and energy authorisations.

The AER was established in accordance with the *Trade Practices Amendment (Australian Energy Market) Act 2004*. The AER comprises three members who are statutory appointees. The members are collectively referred to as the Board. The AER was established as a separate legal entity within the ACCC. The Australian Government is responsible for funding the AER.

authorising environment

National Electricity Law

The NEL is established by the *National Electricity (South Australia) Act 1996* (as amended by the *National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005*). It is applied through state and territory application legislation.

The *National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005* was passed by the South Australian Parliament on 14 April 2005. The NEL contains provisions setting out the powers and functions of the Australian Energy Market Commission (AEMC) and the AER, as well as provisions for the operation of the National Electricity Market (NEM).

National Electricity Rules

The initial NER commenced operation on 1 July 2005. The NER governs the operation of the NEM. The AEMC is charged with amending the NER from time to time; the latest version of the NER can be found on the AEMC website. The AER has provided submissions to the AEMC on its proposed amendments to the NER relating to economic regulation of electricity transmission service providers (TNSPs).

The National Third Party Access Code for Natural Gas Pipeline Systems

The Gas Code applies to transmission and distribution pipelines with natural monopoly characteristics. The Gas Code sets out the principles to be applied by regulators in assessing an access arrangement. It also provides for binding arbitration of disputes between service providers and access seekers.

National Gas Law and Rules

The MCE response to the Productivity Commission's review of the gas access regime was released in May 2006. The response will be given effect through the new NGL and NGR. The new gas legislative regime is expected to commence on 31 December 2007.

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator

encourage competition in markets that depend on monopoly services

- > facilitated competition in energy markets (NEM monitoring/reports)
 - > published weekly market analysis, looking at spot prices, rebidding, network outages and demand/supply forecasting
 - > prepared longer term statistics on the performance of the market detailing trends in demand, spot prices, contract prices, the wholesale electricity price index, frequency control ancillary service prices, reserve energy, settlement residue auctions and spot price
 - > prepared reports on all incidents where spot prices for a region exceeded \$5000/MWh in a trading interval and analysed market conditions leading up to and during such intervals
 - > conducted special investigations into spot market outcomes addressing compliance issues with results published where appropriate
 - > examined all rebids through reporting functions during times where prices exceeded 3 times the volume weighted average in a week and investigated any atypical rebids, where necessary
 - > published 4 quarterly compliance reports
 - > monitored compliance and investigated breaches or possible breaches of the NEL or NER to recommend possible enforcement action
- > established access terms (access arrangements and revenue resets)
 - > approved investment of \$2629 million for Powerlink to augment and upgrade its transmission network from 1 July 2007 to 30 June 2012, providing incentives for efficient investment in the NEM
 - > approved APT Petroleum Pipelines Ltd proposed access arrangement for the Roma to Brisbane pipeline from 2006–07 to 2010–11 and set an initial capital base of \$296.4 million, providing investment incentive and certainty to APTPPL
- > approved Epic Energy's revised access arrangement for the south-west Queensland pipeline until 30 June 2016, providing investment incentive and certainty to Epic Energy

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

ensure that access regulation provides incentives for efficient business investment and use of infrastructure

- > released the annual electricity regulatory report for 2005–06, detailing information from regulated transmission businesses about their financial and operational performance
- > released an issues paper canvassing options to introduce a new service standards incentive that rewards TNSPs for reducing the number and duration of outages that have a market impact and provide more advanced notice of outages
- > released indicators of the market impact of transmission congestion for 2004–05 and 2005–06, identifying the causes and market impacts of transmission constraints
- > assessed service standards compliance reports received from electricity transmission businesses and advised the businesses of the financial reward or penalty for their annual revenue allowance
- > analysed annual ring-fencing reports from 15 service providers of 10 gas transmission pipelines to ensure compliance with the ring-fencing requirements of the gas code.

performance indicator

ensure that businesses using monopoly services pay prices that reflect efficient costs

- > approved 6 gas transmission service providers' reference tariff variations to ensure their compliance with their access arrangements
- > approved pass-through of Powerlink's additional grid support payments to account for increased demand in north and south-east Queensland
- > approved pass-through of SP AusNet's liability for land tax on its transmission easements ensuring the financial effect of land taxes on transmission easements was economically neutral, facilitating efficient transmission charges
- > approved pass-through of Transend's additional grid support payments to account for a temporary change in the location of the grid support supplier; the AER also granted Transend an extension to pass-through actual grid support payments from 1 August 2007 to 30 June 2009

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

Chevron Australia Pty Ltd and others

result | On 1 November 2006 Chevron Australia Pty Ltd notified the ACCC it would withdraw the A90667–69 applications for the authorisation of joint marketing in connection with the PNG gas pipeline if no other parties to the applications objected. The ACCC contacted the parties to the original applications and received no objection to their withdrawal. The applications were withdrawn on 8 March 2007.

Santos Limited and others

result | On 3 November 2006 Santos Limited notified the ACCC of the withdrawal of its A90559 application for the authorisation of the joint marketing of commingled liquid hydrocarbons from the Cooper Basin in South Australia and Queensland.

Western Australian Wholesale Electricity Market Rules

result | On 22 December 2006 the ACCC released its determination granting authorisations A91004–06 for the Western Australian Wholesale Electricity Market Rules for 15 years.

AER decisions under the National Electricity Rules

\$20 000 penalty imposed on AGL Hydro Partnership

result | On 28 July 2006 the AER imposed a \$20 000 civil penalty on AGL Hydro Partnership after determining that it breached cl. 3.8.22(c)(2)(i) of the NER by failing to provide a verifiable and specific reason for declaring the MCKAY1 generating unit inflexible on 22 March 2006.

Powerlink pass-through application

result | On 13 October 2006 the AER approved Powerlink's application to pass-through additional grid support costs into transmission charges for 2007–08 under the pass-through provisions in Powerlink's 2001 revenue cap decision.

Reopening TransGrid's revenue cap for material error—final decision

result | On 2 February 2007 the AER decided to revoke and substitute TransGrid's 2004–05 to 2008–09 revenue cap under cl. 6.2.4(d)(2) and 6.2.4(e) of the NER.

SP AusNet transmission determination

result | On 28 February 2007 the AER received a revenue proposal, proposed negotiating framework and proposed pricing methodology from SP AusNet for 1 April 2008 to 31 March 2014. The AER is currently reviewing SP AusNet's proposal. A final decision is scheduled for January 2008.

VENCorp transmission determination

result | On 1 March 2007 the AER received a revenue proposal and proposed negotiating framework from VENCORP for 1 July 2008 to 30 June 2014. On 7 June 2007 VENCORP submitted its proposed pricing methodology for the same period separately. The AER is currently reviewing VENCORP's proposal. A final decision on VENCORP's revenue proposal and proposed negotiating framework is scheduled for January 2008 while a final decision on VENCORP's pricing methodology is scheduled for April 2008.

SP AusNet pass-through application

result | On 27 April 2007 the AER approved SP AusNet's application to pass-through the effects of a change in tax event into transmission charges for 2007–08, under the pass-through provisions in SP AusNet's 2002 revenue cap decision.

Transend pass-through application

result | On 27 April 2007 the AER approved Transend's application to pass-through additional grid support costs into transmission charges for 2007–08, under the pass-through provisions in Transend's 2003 revenue cap decision. The AER also granted Transend an extension to pass-through actual grid support costs from 1 August 2007 to 30 June 2009.

GridX Power Pty Ltd network service provider exemption

result | In May 2007 the AER issued its decision not to grant a general (or class) exemption, under s. 13(1) of the NEL and cl. 2.5.1(d) of the NER, to GridX Power Pty Ltd from the requirement to register as a network service provider (NSP) and comply with relevant provisions of the NEL and NER.

ElectraNet transmission determination

result | On 31 May 2007 the AER received a revenue proposal, proposed negotiating framework and proposed pricing methodology from ElectraNet for 1 July 2008 to 30 June 2013. The AER is currently reviewing ElectraNet's proposal. A final decision is scheduled for April 2008.

Powerlink transmission network revenue cap decision

result | On 14 June 2007 the AER issued its final decision on the maximum allowed revenue that Powerlink is entitled to recover from 1 July 2007 to 30 June 2012.

Retail Employees Superannuation Pty Ltd network service provider exemption

result | On 29 June 2007 the AER issued its decision to grant a specific exemption under s. 13(1) of the NEL and cl. 2.5.1(d) of the NER to Retail Employees Superannuation Pty Ltd from the requirement to register as an NSP and comply with relevant provisions of the NEL and NER subject to conditions.

South-west Queensland pipeline access arrangement

result | On 1 November 2006 the ACCC made a final decision to approve revisions lodged by Epic Energy to its access arrangement for the south-west Queensland pipeline.

Ring-fencing compliance report for 2005-06

result | In November 2006 the ACCC finalised its assessment of the annual ring-fencing compliance reports submitted by 15 service providers in accordance with the Gas Code.

Moomba to Sydney gas pipeline arbitration

result | On 22 December 2006 AGL Wholesale Gas Limited notified the ACCC of an access dispute with East Australian Pipeline Limited on covered portions of the Moomba to Sydney gas pipeline for the purposes of s. 6.1 of the Gas Code. On 21 February 2007, the ACCC was satisfied that the dispute was validly notified for the purposes of s. 6.1 of the Gas Code and resolved to conduct the arbitration itself in relation to the dispute. The ACCC commenced the process of arbitrating the dispute consistent with its dispute resolution guidelines. On 12 June 2007 AGLWG notified the ACCC of the withdrawal of its notification of an access dispute under s. 6.5 of the Gas Code. The parties reached a negotiated outcome consistent with the objective of a negotiate/arbitrate framework.

Dawson Valley pipeline ring-fencing waiver

result | On 14 February 2007 the ACCC released its final decision to grant each of the waivers applied for by Anglo Coal (Dawson) Limited, Anglo Coal (Dawson Management) Pty Ltd and Mitsui Moura Investment Pty Ltd, the service providers of the Dawson Valley pipeline.

NT Gas associate contract

result | On 28 February 2007 the ACCC approved an extension until 15 June 2007 of the existing associate contract with NT Gas Distribution, an associated company. On 14 March 2007 the ACCC approved a new associate contract until 1 January 2009 for interruptible supply to NTGD.

Roma to Brisbane pipeline access arrangement

result | On 28 March 2007 the ACCC approved an amended access arrangement proposed by the service provider APTPPL.

Victorian principal transmission system access arrangement

result | On 30 April 2007 the ACCC received a proposed revised access arrangement from GasNet Australia Pty Ltd. On 25 May 2007 the ACCC released the proposed access arrangement, supporting documentation and an issues paper for consultation. After considering issues raised in submissions the ACCC will make its draft decision. The ACCC is currently considering submissions. A draft decision is scheduled for October 2007.

Dawson Valley pipeline access arrangement

result | On 23 May 2007 the ACCC issued a draft decision proposing not to approve the service providers' access arrangement proposal. The ACCC is currently considering submissions. A final decision is scheduled for August 2007.

ACCC annual tariff resets under the Gas Code

Victorian principal transmission system

result | On 6 December 2006 the ACCC allowed the annual reference tariff variation for GasNet for 2007, and on 23 May 2007 it allowed VENCORP's annual reference tariff variation for 2007–08 for tariffs charged in relation to the Victorian principal transmission system.

Moomba to Sydney gas pipeline

result | On 28 May 2007 the ACCC disallowed the service providers' proposed tariff variations for the MSP and specified its own tariff variations for 2007–08.

Central-west pipeline, Central Ranges pipeline and Roma to Brisbane pipeline

result | On 28 May 2007 the ACCC allowed the annual reference tariff variations for these pipelines for 2007–08.

submissions

Energy Reform Implementation Group

result | Lodged on 16 August 2006 commenting on ERIG's issues paper examining the opportunity and need for further reform in 3 work streams—transmission, market structure and financial markets. This was supplemented on 8 December 2006 in a submission that generally supported ERIG's recommendations.

AEMC reviews—review of the electricity transmission and pricing rules (revenue requirements)

result | Lodged on 15 September 2006 commenting on the draft chapter 6A of the NER and the regulatory framework, including incentive mechanisms and the decision-making model. This was supplemented on 20 September in response to legal advice and interpretation of the draft rules and again on 20 October in response to the assessment of capital expenditure and operating and maintenance expenditure during transmission determinations.

AEMC reviews—review of the electricity transmission and pricing rules (pricing principles)

result | Lodged in September 2006 supporting the proposed approach to transmission pricing and making recommendations to the proposed process for the AER to assess a TNSP's pricing methodology. This was supplemented in late November in a submission supporting the draft rule for the pricing of prescribed transmission services.

AEMC review—regulatory test principles

result | Lodged in November 2006 supporting a draft rule to insert a set of principles into the NER to guide the AER in promulgating the regulatory test.

Retail Policy Working Group papers

result | Lodged on 8 December 2006 a submission on the first Retail Policy Working Group working paper commenting on the proposed arrangements for retailer obligation to supply small customers, retailer and customer market contracts, and retailer and small customer marketing. This was supplemented on 24 January 2007 in a submission on the second working paper commenting on the proposed arrangements for a distributor obligation to provide connection services and their interface with retailers and embedded generators. This was further supplemented on 21 February 2007 in a submission on the third working paper commenting on the proposed arrangements for business authorisation, ring-fencing and retailer failure. This was again supplemented on 10 May 2007 in a submission on the RPWG supplementary working paper, commenting on the proposed arrangements for AER enforcement mechanisms for energy distribution and retailing.

Joint submissions on the National Gas Law and National Gas Rules exposure drafts

result | Lodged on 19 December 2006 by the AER and the Economic Regulation Authority of Western Australia commenting on the MCE's exposure draft of the NGL. This was supplemented on 21 December 2006 by joint comments supporting the transfer of well understood methodologies from the gas code to the NGR.

Submission on the exposure draft National Electricity Law Amendment Bill

result | Lodged on 22 February 2007 commenting on the MCE's exposure draft including the proposed arrangements for access arbitrations, determining the form of regulation for distribution services, ring-fencing and regulatory performance reporting.

AEMC review—EnergyAustralia rule change proposal

result | Lodged on 4 May 2007 commenting on EnergyAustralia's rule change proposal to allow certain transmission assets to be treated as distribution assets for revenue determination purposes.

Electricity distribution pricing and revenue rules exposure draft

result | Lodged on 25 May 2007 commenting on the MCE's exposure draft and the arrangements outlined in the explanatory material for transitional arrangements for the 2009 resets for the Australian Capital Territory and New South Wales.

guidelines

Distribution statement of approach

result | In September 2006 the AER released its electricity distribution regulatory guidelines statement of approach. This document outlined the scope and timeframes for the AER's consultation processes on the development of guidelines for the regulation of electricity distribution services.

First proposed guidelines for electricity transmission businesses

result | In January 2007 the AER released the first proposed guidelines and accompanying explanatory statements for electricity transmission businesses as required under chapter 6A of the NER and the transitional provisions in cl. 11.6.17 of the NER. The first proposed guidelines relate to the post-tax revenue model, the roll-forward model, an efficiency benefit sharing scheme, a service target performance incentive scheme, submission guidelines and cost allocation guidelines. The AER is currently reviewing submissions received and will issue a determination on the first proposed guidelines on or before 30 September 2007.

Pricing methodology guidelines—agreed interim requirements for SP AusNet, VENCORP and ElectraNet

result | In February 2007 the AER released agreed interim requirements, together with an explanatory statement, for SP AusNet, VENCORP and ElectraNet, which will apply to their 2007 reset processes. These requirements were developed in accordance with the transitional provision under cl. 11.8 of the NER.

Pricing methodology guidelines

result | In April 2007 the AER released an issues paper outlining its obligations under the NER and canvassing issues related to the development of the pricing methodology guidelines. Following public consultation, the AER will issue a determination on the pricing methodology guidelines on or before 31 October 2007.

Draft process guideline for contingent projects applications

result | On 14 May 2007 the AER issued its draft guideline for contingent project applications by electricity TNSPs. The NER sets out the requirements on TNSPs lodging applications and the obligations on the AER in assessing applications. While this guideline is not formally required to be made under the NER, the AER has published this guideline to assist TNSPs with lodging an application that complies with NER requirements.

Draft information guidelines for electricity transmission businesses

result | In June 2007 the AER released an issues paper, draft information guidelines and accompanying explanatory statement for electricity transmission businesses. The draft guidelines provide instructions to regulated electricity transmission businesses about the information to be submitted to the AER for annual reporting purposes. Following public consultation the AER will issue a determination on the information guidelines on or before 30 September 2007.

reports issued

Price and network monitoring

result | The AER published weekly market analysis, looking at spot prices, rebidding, network outages and demand/supply forecasting. Further reports were produced on trading intervals when spot prices were in excess of \$5000/MWh. The other major reports produced were quarterly compliance reports targeting specific rule provisions and focusing on areas of the rules related to registration, market operations, security, metering and network connection arrangements.

Indicators of the market impact of transmission congestion 2004–05

result | In October 2006 the AER released its second annual *Indicators of the market impact of transmission congestion 2004–05* report. The report includes the total cost of constraints (TCC) and the marginal cost of constraints (MCC), together with a qualitative assessment of constraints with high market impacts.

Ring-fencing compliance reporting program for 2005–06

result | In November 2006 the ACCC finalised its assessment of the annual ring-fencing reports for compliance with the Gas Code from 15 gas service providers. Most service providers generally complied with the code requirements but areas for improved reporting in the future were identified.

Indicators of the market impact of transmission congestion 2005–06

result | In February 2007 the AER released its third annual *Indicators of the market impact of transmission congestion 2005–06* report. The report includes the TCC and the MCC, together with a qualitative assessment of constraints with high market impacts.

Service standards compliance reports

result | In February 2007 the AER received service standards compliance reports from Directlink, ElectraNet, EnergyAustralia, Murraylink Transmission Company, SP AusNet, Transend and TransGrid. In April 2007 the AER advised these electricity transmission businesses of their financial reward or penalty for their respective annual revenue allowance.

Developing incentives based on market impact of transmission congestion—issues paper

result | In June 2007 the AER released an issues paper canvassing options to introduce a new service standards incentive that rewards TNSPs for reducing the number and duration of outages that have a market impact and for providing a more advanced notice of outages. This issues paper builds on the recent work the AER has undertaken into reporting indicators of the market impact of transmission congestion.

Annual electricity transmission regulatory report for 2005–06

result | In June 2007 the AER released its annual electricity regulatory report for 2005–06. The report details information from regulated transmission businesses and provides greater transparency about their financial and operational performance.

High Court of Australia review

Moomba to Sydney gas pipeline

result | On 17 and 18 April 2007 the High Court heard an application by East Australian Pipeline Limited for review of the Full Federal Court's judgments of 2 June 2006 and 18 August 2006 of the Australian Competition Tribunal's decision of 19 May 2005 concerning the access arrangement for the covered portions of the Moomba to Sydney gas pipeline. The High Court's judgment is pending.

communications

The telecommunications sector includes telecommunications carriage services, the facilities over which they are provided and the content and applications they deliver.

Telecommunications markets were opened to full competition in 1997. The ACCC is responsible for the **competition and economic regulation** of telecommunications markets. The ACCC administers the competition notice and access regimes within the Trade Practices Act that apply to the telecommunications industry, as well as other legislative provisions in the Telecommunications Act and related legislation.

Part XIB of the Act provides an industry-specific mechanism to address breaches of the 'competition rule'. The competition rule prohibits telecommunications carriers and carriage service providers from engaging in anti-competitive conduct. The ACCC has discretion to issue a Part A competition notice if it has 'reason to believe' that a carrier or CSP has engaged, or is engaging, in anti-competitive conduct. A **Part A competition notice** allows for legal proceedings, other than proceedings for injunctive relief, to be taken by the ACCC or a third party to enforce the competition rule. In particular, it allows the ACCC to seek pecuniary penalties from the carrier or CSP. An affected third party may also take legal action seeking damages for the time the notice was in force.

The ACCC also has discretion to issue a **Part B competition notice** if it has reason to believe that a carrier or CSP has committed, or is committing, a specified contravention. A Part B competition notice is prima facie evidence of the matters set out in the notice. However, with both Part A and Part B competition notices, the Federal Court ultimately decides whether a carrier or CSP has engaged in anti-competitive conduct and determines the appropriate penalty or remedy.

Part XIB also gives the ACCC the power to make record-keeping rules (RKR) by written instrument, and it requires that carriers and CSPs comply with them. The rules may specify what records are kept, how reports are prepared and when these reports are provided to the ACCC. The ACCC cannot require the keeping of records unless they contain information relevant to its responsibilities. These responsibilities include the operation of parts XIB and XIC.

Part XIC of the Act governs the telecommunications **access regime**. The access regime does not provide automatic rights of access. Services must first be declared by the ACCC where it is satisfied that declaration will promote the long-term interest of the end user. Carriers or CSPs are then required to provide declared services upon request in accordance with the **standard access obligations**.

Under Part XIC, the **terms and conditions of access** should be the product of commercial negotiations between access seeker and access provider. However, if access cannot be commercially negotiated, a party may notify the ACCC that a dispute exists. The ACCC may then arbitrate over the dispute. The regime also gives access providers the option of lodging an undertaking with the ACCC. An undertaking is a written document under which the access provider undertakes to comply with terms and conditions it specifies in relation to the applicable standard access obligations. If accepted as reasonable by the ACCC, the ACCC cannot make a determination inconsistent with the undertaking. An access provider may also apply to the ACCC for exemption from the standard access obligations that apply to a declared service. Both undertakings and exemption applications can be submitted for services that are not yet being supplied or currently declared.

The ACCC also has responsibilities for administering access regimes for other communications services, such as certain digital television and digital radio services, as well as access to broadcasting transmission towers under the *Radiocommunications Act 1992*. Content and application services are also subject to the restrictive trade practices provisions in Part IV of the Act.

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator

encourage competition in markets that depend on monopoly services

- > implemented enhanced accounting separation of Telstra's wholesale and retail operations, including the release of 6 public reports
- > delivered its 3 annual telecommunications reports to the Minister for Communications, Information Technology and the Arts on competition safeguards and prices as required by divisions 11 and 12 of the Act
- > released a joint report with the Australian Communications and Media Authority on communications infrastructure and services availability in Australia
- > progressed an audit of telecommunications infrastructure assets with the release of a discussion paper
- > monitored Telstra's compliance with the operational separation plan

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

performance indicator

ensure that access regulation provides incentives for efficient business investment and use of infrastructure

- > re-declared the unconditioned local loop service (ULLS), public switch telephone network origination and termination access (PSTN OTA) and local call service (LCS) for 3 years
- > declared wholesale line rental (WLR) for 3 years
- > commenced an inquiry into whether the line sharing service (LSS) should continue to be declared
- > commenced a public inquiry to determine whether it should vary the service declaration for the ULLS to ensure for possible sub-loop access
- > rationalised and removed access regulation by:
 - > revoking the analog pay-TV declaration
 - > allowing the declaration of the conditioned local loop service (CLLS) to expire
 - > allowing the local PSTN OTA service declarations to expire
- > commenced a public consultation process on the channel B digital television access regime with the release of a discussion paper on 15 December 2007 and commenced development of legislative instruments to guide the assessment of channel B access undertakings in 2007–08
- > continued a major review of existing regulation and the principles that will guide future regulatory decision by issuing a position paper and continuing a major review of the regulation of key network and wholesale services provided over the fixed telecommunications network

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

this year the ACCC

<p>performance indicator</p> <p>ensure that businesses using monopoly services pay prices that reflect efficient costs</p>	<ul style="list-style-type: none"> > released a final decision to reject 2 access undertakings for the ULLS submitted by Telstra and assisted the Australian Competition Tribunal in its review of the ACCC's decision to reject these undertakings; Telstra's appeal was unsuccessful > assisted the tribunal in its review of the ACCC's decision to reject a mobile termination access service (MTAS) undertaking from Vodafone; Vodafone's appeal was unsuccessful > assisted the tribunal in its review of the ACCC's decision to reject an MTAS undertaking from Optus; Optus's appeal was unsuccessful > accepted a special access undertaking from Foxtel for a digital set-top unit service that allows content providers to use the undertaking to offer their channels to Foxtel's customers as a tier to Foxtel's basic package > commenced a public consultation process on the FTTN network special access undertaking lodged by FANOC—the company created by the G9 group of telecommunications carriers > released a decision to reject access undertakings for the PSTN OTA and the LCS from Telstra > commenced and progressed 32 new arbitrations for declared wholesale services: 10 for the MTAS; 5 for the ULLS; 6 for the LSS; 3 for the WLR; 2 for the domestic transmission capacity services (DTRANS); 2 for the PSTN OTA; 3 for the LCS; and 1 for RadCom and PMTS tower leases under the Telecommunications Act > made 53 determinations for arbitrations during 2006–07: 11 interim and 18 final determinations for the MTAS; 13 interim determinations for the ULLS; 5 interim determinations for the LSS; 3 interim determinations for the WLR; and 3 interim determinations for the LCS > released final pricing principles and indicative prices for the PSTN OTA, LCS and WLR services
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Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

	this year	last year
anti-competitive conduct investigations	8	11
services newly declared	1	0
services re-declared	4	2
services undeclared	4	0
access undertakings received	3	10
access disputes notified	32	31

reports

The ACCC complied with its reporting requirements under the Act by supplying the minister with reports on **competitive safeguards, changes in the price paid for telecommunications services and price controls**.

The ACCC's **competitive safeguards report** observed that growing investment in infrastructure is providing consumers with better quality services. The report noted that carriers were investing significantly in 3G mobile networks and broadband infrastructure. The report also found that investment in competing infrastructure was allowing carriers to launch higher speed ADSL2+ services.

The **changes in the prices for telecommunications services report** observed that the overall average prices paid by consumers fell by 6.5 per cent in 2005–06. Fixed-line and mobile consumers benefited equally from the reductions, with the prices paid for fixed-line services falling by 6.6 per cent and prices paid for mobile services falling by 6.5 per cent.

The ACCC also supplied the minister with a **price control report**. The report found that Telstra had adequately complied with all price control arrangements established by the government for 2005–06.

The ACCC also furnished the minister with a copy of two sets of half-year accounts for Telstra's core services prepared on a current cost and historical cost basis. This step is in accordance with a direction issued by the minister in June 2003 requiring the ACCC to develop a record-keeping rule and to publish reports to implement **enhanced accounting separation** of Telstra's wholesale and retail operations.

The ACCC also published quarterly reports on imputation testing and non-price terms and conditions under the enhanced accounting separation regime for Telstra. The report presents key performance indicators that compare Telstra's customer service performance in meeting certain non-price terms and conditions for its wholesale and retail customers.

The ACCC also continued to publish quarterly reports on the deployment of broadband services in its **broadband snapshot**. The ACCC's broadband snapshot in part addressed a reporting obligation arising from a determination by the minister under Division 12A of the Act. The determination required the ACCC to report quarterly at a very detailed level on a range of broadband availability and take-up. In April 2007 the minister revoked the determination. Given the revocation of the determination, the recommencement of the ABS Internet Activity Survey and confirmation that its half-yearly reporting will continue in future, the ACCC decided to discontinue its broadband snapshot.

investigations

In the 2006–07 financial year the ACCC concluded its investigation into Telstra's line rental pricing. On 12 April 2006 the ACCC issued a Part A competition notice to Telstra regarding its wholesale line rental pricing. The issuing of the competition notice was challenged by Telstra, but the Federal Court has yet to make final orders in relation to the validity of the competition notice.

Following the ACCC's declaration of the WLR service and subsequent market developments, the ACCC prospectively revoked the competition notice on 28 February 2007. The ACCC considered that competition concerns relating to pricing of the WLR service had been effectively addressed by the declaration processes that it had instituted under Part XIC of the Act.

The ACCC also undertook seven **anti-competitive conduct investigations**. In each of these investigations, the ACCC did not form the requisite reason to believe that the carrier or carriage service provider was engaging in anti-competitive conduct.

The ACCC conducted two investigations into Telstra's compliance with the operational separation plan. These two matters were brought to the attention of the minister, as it is the minister's responsibility to consider whether remedial action is required. In addition, the ACCC conducted two investigations into Telstra's compliance with the **retail price control determination**, which have been completed without further action.

The ACCC also conducted a number of industry-wide investigations into compliance with Part V of the Act, including an investigation into broadband speed claims. In January 2007 the ACCC released an information paper on broadband speed claims and the Trade Practices Act. As a result, there has been widespread change to industry conduct.

declarations

In December 2005 the ACCC commenced its **fixed services review**, a broad-ranging inquiry to examine the future regulation of certain key fixed network and wholesale services. The inquiry was initiated because of the pending expiry of declarations for the ULLS, PSTN OTA and the LCS, as well as significant developments in the industry such as fibre-to-the-node.

In July 2006 the ACCC released a final decision to re-declare the ULLS and PSTN OTA services for three years. It concluded that continued declaration of the ULLS and PSTN OTA will promote the long-term interests of end users (LTIE) by promoting competition in various wholesale and retail markets and encouraging efficient use of, and investment in, infrastructure.

The ACCC rationalised regulation in a number of areas. It revoked its declaration of the analog pay-TV service. It also allowed the declaration of the CLLS to expire as it considers that the CLLS now provides little or no comparative benefits. The local PSTN OTA services were also not re-declared as they are no longer deemed to promote the LTIE.

Also in July 2006 the ACCC re-declared the LCS for three years and declared the WLR service for three years. These decisions were made because the ACCC considers that the continued declaration of the LCS and the WLR declaration are in the LTIE and will encourage economically efficient use of, and investment in, infrastructure. The ACCC also released its final indicative prices for the LCS and WLR services in November 2006.

In April 2007 the ACCC began a second stage of the fixed services review. The ACCC released a position paper outlining a framework for the review of existing fixed services regulation and the principles that will guide future regulatory decisions. This paper also commenced a re-declaration inquiry for the LSS, which is due to expire in October 2007.

The ACCC also decided to hold a public inquiry to determine whether it should vary its service description for the ULLS. The ACCC had received a request from the G9 consortium of companies to vary the ULLS declaration and has decided to hold an inquiry to consider the appropriateness of the change. The ACCC released a discussion paper in May 2007.

access pricing—disputes and undertakings

Over the course of 2006–07 the ACCC commenced and progressed 32 new arbitrations for **declared wholesale services**: 10 for the MTAS; five for the ULLS; six for the LSS; three for the WLR; two for the DTRANS; two for the PSTN OTA; three for the LCS; and one for RadCom and PMTS tower leases under the Telecommunications Act.

The ACCC issued 53 determinations during 2006–07: 11 interim and 18 final determinations for the MTAS; 13 interim determinations for the ULLS; five interim determinations for the LSS; three interim determinations for the WLR; and three interim determinations for the LCS.

As at 30 June 2007 the ACCC had 39 arbitrations continuing: six arbitrations for the MTAS; 11 arbitrations for the ULLS; nine arbitrations for the LSS; two arbitrations for the WLR; two arbitrations for the DTRANS; six arbitrations for the PSTN OTA; two arbitrations for the LCS and one for RadCom and PMTS tower leases under the Telecommunications Act.

In December 2005 Telstra submitted a ULLS monthly charge undertaking that proposed a geographically averaged ULLS monthly charge. The ACCC issued a draft decision in June 2006, and a final decision in August 2006, to reject the amended undertakings on the basis that the proposed charges were not reasonable. Telstra applied to the Australian Competition Tribunal in September 2006 for review of the ACCC's decision. In May 2007 the tribunal upheld the ACCC's decision and rejected the application, as it was not satisfied that the terms of the undertakings were reasonable.

In December 2004 Optus submitted an undertaking for the supply of its domestic global systems for mobile communications (GSM) terminating access service (DGTAS). The DGTAS is a subset of the declared MTAS covering only services on Optus's GSM network. The ACCC issued a draft decision in November 2005, and a final decision in February 2006, to reject the undertaking on the basis that the proposed charges were not reasonable. Optus applied to the tribunal in February 2006 for review of the ACCC's decision. In November 2006 the tribunal upheld the ACCC's decision and rejected the application, as it was not satisfied that the terms of the undertaking were reasonable.

In March 2005 Vodafone submitted an undertaking for the supply of its MTAS. The ACCC issued a draft decision in December 2005, and a final decision in March 2006, to reject the undertaking on the basis that the proposed charges were not reasonable. Vodafone applied to the tribunal in April 2006 for review of the ACCC's decision. In January 2007 the tribunal upheld the ACCC's decision and rejected the application, as it was not satisfied that the terms of the undertaking were reasonable.

Telstra submitted **PSTN OTA and LCS undertakings** to the ACCC in 2005–06. In November 2006 the ACCC released its final decision to reject the undertakings.

In February 2007 Optus lodged an **MTAS undertaking** with the ACCC. The undertaking specified certain terms and conditions upon which Optus undertakes to supply its DGTAS. In June 2007 the ACCC released a draft decision to reject the undertaking.

content, applications and convergence

The ACCC examined emerging issues and new policy approaches relating to the impact of technical convergence on communications markets.

The ACCC continued to participate in discussions with Telstra to assist it in deciding whether to put forward a detailed **FTTN special access undertaking** for public consultation. Telstra halted discussions in August 2006 and did not submit a formal FTTN SAU.

The ACCC also engaged in discussion with the G9 consortium of carriers, which also indicated an intention to develop an FTTN network. The discussions with the G9 resulted in FANOC—a company created by the G9 consortium—submitting an SAU for assessment by the ACCC on 30 May 2007. The SAU specifies the terms and conditions upon which it undertakes to supply what it terms the 'broadband access service' in the case where the proposed FTTN network is deployed. The ACCC commenced its public consultation process on the SAU with the release of a discussion paper on 21 June 2007.

As part of its role under the Radiocommunications Act, the ACCC released a discussion paper on the channel B digital television access regime in December 2006. The ACCC received 17 submissions in response to the discussion paper. The ACCC is considering these submissions and will establish legislative instruments to guide the assessment of channel B access undertakings in 2007–08. The ACCC has also commenced work on implementing an access regime for digital radio multiplex facilities in the lead-up to the commencement of digital radio services in 2009.

The ACCC participated in meetings of the Communications Alliance addressing regulatory and policy issues, including convergence, voice over internet protocol (VOIP), interconnection and quality of service and local number portability.

Following an ACCC draft decision to reject its initial undertaking, Foxtel lodged a revised special access undertaking on 1 December 2006. The undertaking relates to what Foxtel describes as the **digital set-top unit service**. DSTUS generally used by subscription television providers for the reception, decryption and display of content (including interactive content) at the end user premises. Following public consultation, the ACCC issued its final decision to accept the special access undertaking on 16 March 2007. Digital content providers will be able to use the undertaking to offer their channels to Foxtel's customers as a tier to Foxtel's basic package.

The Seven Network has commenced litigation in the Federal Court seeking judicial review of the ACCC's decision to accept Foxtel's special access undertaking.

consultation, monitoring and reviews

In June 2007 ACMA and the ACCC released a report entitled *Communications infrastructure and services availability in Australia 2006–07*. This is the first time the two agencies have issued a joint report of this type, which discusses the availability of broadband, fixed voice, mobile voice, mobile data and broadcasting infrastructure and services. The report lays the foundation for future joint reporting by ACMA and the ACCC on communications markets.

The ACCC is also progressing an audit of telecommunications infrastructure assets. In March 2007 a discussion paper was released detailing data sets proposed to be collected as part of the audit. Submissions are presently being considered and the ACCC will finalise the details of the audit before the end of 2007.

Data provided by 19 leading ISPs under the internet interconnection record-keeping and reporting rules gave the ACCC insight into the arrangements ISPs use for interconnecting with each other to exchange traffic. Following a review, the ACCC decided to revoke the rules in June 2007 because the benefits of collecting further data would not justify the reporting costs to industry.

The ACCC continued to provide advice to the Department of Communications, Information Technology and the Arts on a range of price and non-price matters relating to Telstra's proposed operational separation. The ACCC also continued to monitor bundling of residential services using RKR introduced in March 2003.

aviation

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator	> issued a price monitoring and financial report for the seven major airports
ensure that businesses using monopoly services pay prices that reflect efficient costs	> issued a quality of service monitoring report for the seven major airports > commenced arbitration under Part IIIA of an access dispute between Virgin Blue and Sydney Airport Corporation Limited (SACL)

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

monitoring prices and quality of service

The ACCC published **airports regulatory reports** for the seven major airports: Sydney, Melbourne, Brisbane, Perth, Adelaide, Canberra and Darwin. Under Part VIIA of the Trade Practices Act, the ACCC monitors the prices, costs and profits relating to aeronautical services and aeronautical-related services; and under the Airports Act, it reports on financial accounts and quality of service.

Monitoring involves collecting information and reporting on prices, quality and financial accounts. The ACCC has no power to prevent price increases, except for aeronautical services for regional airline services at Sydney airport. These prices are subject to a price cap. No proposal for price increases for regional services was received from Sydney airport in 2006–07.

The ACCC is also responsible for assessing proposals by Airservices Australia to increase charges for en route and terminal navigation services and rescue and fire fighting services.

The airports **price monitoring and financial report** provided information on the prices, costs and profitability performance of the seven major airports. Key findings were that changes in average aeronautical revenue per passenger (including landing charges and passenger processing charges) mostly ranged from a decline of 1.1 per cent to an increase of 12 per cent, with the exception of a 49 per cent increase at Adelaide where a new terminal was commissioned; and aeronautical operating expenses per passenger changed by between -1.3 per cent and +9 per cent, except for Adelaide where these expenses increased by 69 per cent. Aeronautical margins per passenger increased at the majority of airports in 2005–06, but decreased at Canberra airport.

The ACCC monitors airport **quality of service** by collecting information from airport operators, the Australian Customs Service, Airservices Australia and airlines. The information includes data from customer perception surveys and airline surveys. Key findings were that results were generally satisfactory to good over the period from 2002–03 to 2005–06, with Brisbane the top-ranked airport over this period, achieving an overall rating of good. Melbourne, Sydney and Perth airports rated between satisfactory and good. Both Canberra and Darwin airports have generally rated at the satisfactory level. Adelaide airport's overall rating improved significantly in 2005–06, from satisfactory to just below good, following the opening of the multi-user integrated terminal.

arbitration

Certain airside services provided by SACL to airlines are declared under Part IIIA of the Trade Practices Act. In January 2007 Virgin Blue notified the ACCC of an access dispute with SACL, and in February 2007 an arbitration of this dispute commenced. The dispute related to the level of, and the methodology for, calculating the price SACL was charging Virgin Blue for the use of airside services at Sydney airport.

In May 2007 Virgin Blue withdrew its notification of an access dispute with SACL following a negotiated commercial settlement of the dispute.

rail

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator

ensure that businesses using monopoly services pay prices that reflect efficient costs

- > monitored Australian Rail Track Corporation (ARTC) compliance with its obligations outlined in its access undertaking
- > commenced assessment of a new access undertaking from ARTC
- > contributed to development of a model national rail access code

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

Under a Part IIIA access undertaking approved in May 2002, the ACCC administers the terms and conditions of **access to rail tracks** owned or leased by ARTC. The tracks are part of the interstate mainline standard gauge track in Victoria and South Australia, which extends to Kalgoorlie in Western Australia and Broken Hill in New South Wales.

In May 2007 the ACCC received an application from ARTC for a new access undertaking, including terms and conditions for access to tracks that are part of the interstate mainline standard gauge track.

In conjunction with ARTC, the ACCC developed and submitted to Treasury a template for the national rail access regime. The template is being considered by the Council of Australian Governments.

water

output 1.1.2

Competitive market structures and informed behaviour

this year the ACCC

performance indicator

ensure that businesses using monopoly services pay prices that reflect efficient costs

- > issued a report regarding access, exit and termination fees charged by irrigation water delivery businesses in the southern Murray–Darling Basin
- > arbitrated under Part IIIA an access dispute between Services Sydney and Sydney Water Corporation

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

irrigation water delivery fees

In November 2006 the ACCC released its report on **access, exit and termination fees** charged by irrigation water delivery businesses in accordance with a request from the Australian, New South Wales, South Australian and Victorian governments.

The report developed a consistent inter-jurisdictional framework for the use of access and termination fees charged by operators of irrigation water delivery networks to assist the New South Wales, Victorian and South Australian governments to meet their obligations under the National Water Initiative.

arbitration

Certain services provided by Sydney Water are declared under Part IIIA of the Trade Practices Act. In November 2006 Services Sydney notified the ACCC of a dispute in relation to the methodology of pricing access to Sydney Water's declared sewage transportation services.

The ACCC made its final determination in June 2007 and will release the public arbitration report in July 2007.

The ACCC determined that the access pricing methodology is to be Sydney Water's regulated retail prices less its avoidable costs of undertaking the contestable activities associated with the provision of sewerage services.

waterfront and shipping

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator

ensure that businesses using monopoly services pay prices that reflect efficient costs

- > issued a stevedoring monitoring report showing average company costs and revenues rising
- > monitor prices to assess the impact of market conditions on price levels of goods and services
- > monitored prices formally and informally for container stevedoring and freight rates for international liner cargo
- > administered international liner cargo shipping arrangements

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

The Treasurer directed the ACCC on 20 January 1999 under the then *Prices Surveillance Act 1983* to monitor prices, costs and profits of **container stevedoring operators** in the ports of Adelaide, Brisbane, Burnie, Fremantle, Melbourne and Sydney to inform the community about the progress of waterfront reform at major container terminals.

The ACCC released its eighth **container stevedoring report** in November 2006 examining trends in prices, costs and profits of the three major stevedoring companies, P&O Ports, Patrick and DP World, from July 2005 to June 2006. Industry average costs and revenues increased during 2005–06. Average productivity levels at the five ports monitored decreased.

The ACCC has a role in administering Part X (**international liner cargo shipping**) of the Trade Practices Act, which provides for agreements between shipping lines to be exempted from some of the provisions proscribing anti-competitive conduct. The ACCC did not conduct any investigations under Part X during 2005–06.

post

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator

ensure that businesses using monopoly services pay prices that reflect efficient costs

- > required Australia Post to keep records relevant to the ACCC's functions of testing for cross-subsidy, assessing proposals for price increases and dispute inquiry under recent amendments to the *Australian Postal Corporation Act 1989*
- > issued reports outlining the ACCC's analysis of Australia Post's 2004–05 and 2005–06 regulatory accounts

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

In March 2005 the ACCC issued a record-keeping rule to Australia Post. That RKR requires that Australia Post provide the ACCC with annual regulatory accounts.

The ACCC released its first report outlining its **cross-subsidy analysis** of Australia Post's regulatory accounts for the 2004–05 financial year in July 2006. After further consultation with Australia Post and other interested parties, the ACCC finalised its views on the disclosure of confidential information in these reports and released its principles for disclosure of confidential information and re-issued the 2004–05 report, with additional information included, in November 2006. The ACCC released its analysis of Australia Post's 2005–06 regulatory accounts in March 2007.

Proposals by Australia Post to increase charges for **monopoly postal services** are assessed by the ACCC. Australia Post did not propose to increase the price of any reserved services during 2006–07.

The ACCC also has a role in resolving disputes over the price charged to users of Australia Post's bulk interconnection services. No disputes were notified to the ACCC this year.

petrol

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator

monitor prices to assess the impact of market conditions on price levels of goods and services

- > monitored the retail prices of unleaded petrol, diesel and automotive LPG in all capital cities and about 110 country towns
- > monitored E10 petrol prices and the price differential between E10 petrol and regular unleaded petrol
- > monitored international crude oil and refined petrol prices, published terminal gate prices of the major oil companies and the city–country price differential

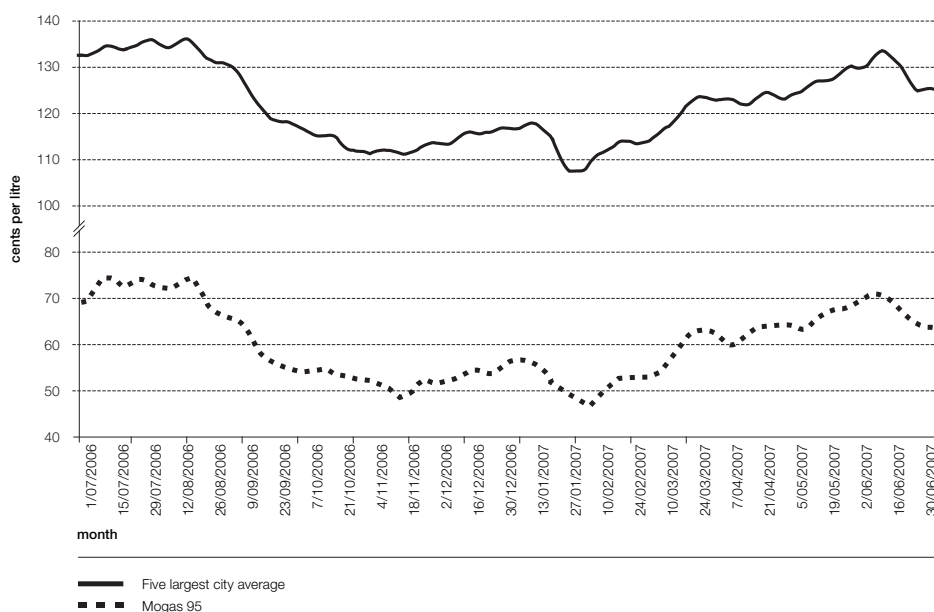
Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

As in previous years, **monitoring of unleaded petrol prices** indicated that prices were volatile over the year. This can be seen in the chart. The average monthly retail unleaded petrol price for the five largest metropolitan cities (i.e. Sydney, Melbourne, Brisbane, Adelaide and Perth) ranged from a low of 112.0 cents per litre in January 2007 to a high of 134.6 cents per litre in July 2006. The average price during the year was 121.5 cents per litre, which was 0.4 cents per litre above the average price last year.

Movements in domestic petrol prices are largely driven by movements in the international refined petrol price (measured by the spot price for Singapore Mogas 95 Unleaded) and the Australian/United States dollar exchange rate (this is shown in the chart). However, on two occasions during the year (i.e. in early January 2007 and in late May/early June 2007) the ACCC publicly expressed concern about a divergence in the movements of retail unleaded petrol prices in Australia and movements in Singapore Mogas 95 Unleaded.

On 15 June 2007 the Treasurer approved the ACCC holding an inquiry into the price of petrol, under the prices surveillance provisions of the Trade Practices Act. Matters to be considered by the inquiry include the structure of the industry; the extent of competition at the refinery, wholesale and retail levels; the determination of prices at each of these levels; and impediments to efficient petrol pricing. The ACCC is to provide a report to the Treasurer by 15 October 2007.

figure 4 Five largest metropolitan cities 7-day rolling average and Singapore Mogas 95 Unleaded rolling average: 1 July 2006 to 30 June 2007



The average differential between average retail prices in the five largest metropolitan cities and **country areas** was 5.4 cents per litre. The monthly differential ranged from a high of 8.7 cents per litre in September 2006 to a low of 2.4 cents per litre in May 2007.

In July 2006 the ACCC made a submission to the Senate Economics Legislation Committee inquiry into the price of petrol in Australia. The ACCC also appeared before the committee on two occasions and provided supplementary information in response to issues raised by the committee.

In August 2006 the Treasurer announced that the ACCC would extend its monitoring of fuel prices to include E10 petrol and provide a quarterly report on the price differential between E10 petrol and unleaded petrol. E10 petrol is unleaded petrol blended with 10 per cent ethanol. The first report, released in January 2007, found that E10 petrol prices in the December 2006 quarter were on average 2.9 cents per litre below regular unleaded petrol prices. The second report, released in May 2007, indicated that E10 petrol prices in the March 2007 quarter were on average 3.0 cents per litre below regular unleaded petrol prices. These reports are available on the ACCC website.

The consumer awareness initiative on **petrol price cycles** on the ACCC website—which aims to increase consumers’ understanding of petrol price cycles and how to take advantage of them—continued in 2006–07. Consumers can make significant savings by buying petrol at the bottom of the price cycle. The ACCC website provides data on unleaded petrol price cycles in the five largest metropolitan cities. It also includes information on petrol prices and has links to a number of other websites that have information about petrol prices and petrol pricing issues.

The ACCC dealt with 1842 inquiries and complaints on fuel pricing.

insurance and bank charges

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator

monitor prices to assess the impact of market conditions on price levels of goods and services

> monitored prices for medical indemnity insurance

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

On 29 May 2006 the Minister for Revenue and Assistant Treasurer, the Hon. Peter Dutton MP, wrote to the ACCC requesting that it continues to examine the actuarial and commercial justification of medical indemnity premiums, including within jurisdictions, for a further three years.

The Australian Government released the ACCC's **fourth monitoring report** in April 2007. This report found that premiums written in 2006–07 (2006 in the case of Australasian Medical Insurance Limited) were considered to be both actuarially and commercially justified.

The ACCC also maintains a watching brief on **bank fees and charges**, including credit cards and personal transaction accounts.

red meat

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator

monitor prices to assess the impact of market conditions on price levels of goods and services

- > reported on the relationship between saleyard livestock and retail red meat prices

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

On 28 November 2006 the Hon. Peter McGauran MP, Minister for Agriculture, Fisheries and Forestry, asked the ACCC to examine the prices paid to farmers for **livestock** and the prices that Australian consumers are paying for **red meat**.

The ACCC submitted a report to the minister in February 2007 and it was publicly released on 15 February 2007.

intellectual property

output 1.1.2

competitive market structures and informed behaviour

this year the ACCC

performance indicator

ensure that businesses using monopoly services pay prices that reflect efficient costs

- > issued a draft guide to copyright licensing for public consultation
- > became a party to the Phonographic Performance Company of Australia's reference of its fitness class tariff to the Copyright Tribunal of Australia

Measured against performance indicators defined in the ACCC portfolio budget statements 2006–07

In December 2006 the *Copyright Act 1968* was amended to allow the Copyright Tribunal of Australia to consider any relevant guidelines made by the ACCC and allow the tribunal to make the ACCC a party to certain proceedings before it.

regulators forum

The ACCC, with state and territory regulatory agencies, set up a public utility regulators forum to share information and develop understanding of the activities of various regulators and industries as they implement reform. All regulators are involved. The aim of the forum is to exchange information, to encourage consistency in the application of regulatory functions and to review new ideas about regulatory practices. The forum published three **Network** newsletters with updates on regulatory activities as well as articles on common challenges.

when we did it

july 06

Federal Court upheld ACCC's access arrangement for the Moomba to Sydney pipeline decision

obtained consent orders against LG Electronics over mobile telephones for warranty misrepresentations

opposed acquisition of Watty! by Barloworld

allowed collective negotiations at Port Botany

notified of two telecommunications access disputes

allowed transition period for public liability insurance pool

proposed to grant authorisation to Qantas–Orangestar cooperation agreement

issued best practice guide for stores serving Indigenous communities

discontinued proceedings against global vitamin C cartel

allowed collective negotiations by corporate bookmakers

ACCC/NZCC agreed in-principle to cooperative trans-Tasman mergers review protocol

high-lift 'farm jacks' declared unsafe

imposed tougher reporting under revised drug companies code

instituted against alleged franchising contraventions

issued final decisions on regulation of fixed-line telecommunications services

issued 2004–05 telecommunications market indicator report

took court action against Beaver Sales Pty Ltd over high-lift jack

extended current access arrangement for Roma to Brisbane pipeline

notified of telecommunications access dispute—PowerTel Limited and Hutchison 3G Australia

august 06

issued Australia Post cross-subsidy report

instituted proceedings against FCHEM (Aust) Limited, Osmose Australia Pty Ltd and Edward Mark Greenacre for alleged price-fix

called for comment on the proposed acquisition of Unitab Limited by Tabcorp Holdings Limited

decided not to oppose Alinta/AGL joint merger proposal

instituted against Menopause Institute of Australia, managing director alleging misleading and deceptive health claims

agreed to trans-Tasman merger protocol with NZCC

revoked Nestlé notification
 provided guidance on media mergers
 penalised Bamix distributor \$280 000 for preventing discounts
 called for comment on Smorgon Steel Limited/Onesteel Limited acquisition
 notified of telecommunications access dispute—Macquarie Telecom Pty Limited and Telstra Corporation Limited
 agreed to work with ACMA on industry data collection
 decided to oppose Tabcorp proposed acquisition of UNiTAB
 Federal Court declared Advanced Medical Institute's advertising 'misleading'
 ensured green cosmetic claims come clean
 released full reasons for notice to revoke Nestlé notification
 instituted proceedings against skincare and cosmetics company Jurlique for alleged resale price maintenance
 Federal Court made final orders on tribunal decision on access arrangement for Moomba to Sydney pipeline
 decided not to oppose the acquisition of Gippsland saleyards by Victorian Livestock Exchange
 Crown immunity shielded Baxter Healthcare
 issued final decision on Telstra's ULLS undertakings
 issued Telstra retail pricing protocol
 issued draft decision on Roma to Brisbane pipeline revised access arrangement
 accepted undertaking for recall of promotional bicycle from Hagemeyer Asia Pacific Pty Limited

september 06

published interim telecommunications determination
 announced draft decision to reject Foxtel's special access undertaking for digital set-top unit service
 proposed changes to surgeons' authorisation
 issued statement of issues on proposed acquisition of GasNet by the APT
 OneSteel requested ACCC to delay Smorgon merger decision
 issued notice revoking Australian Baseball Federation notification
 notified of telecommunications access dispute—Telstra Corporation Limited and Optus Networks Pty Limited
 accepted gas company divestiture in international Linde AG/BOC Group plc industrial gas merger
 decided not to oppose S8 Limited travel industry acquisitions
 welcomed IATA request for phased removal of immunity

launched Competing Fairly Forum—scams, frauds and your business
 sought comment on new Alinta/APT merger proposal
 Federal Court declared Cleanaway’s conduct misleading and unconscionable
 issued draft decision to reject Telstra’s PSTN and LCS undertakings
 resumé business gave undertakings over home-based business claims
 BP moved on petrol discount signage
 Uncle Tobys stopped claims Roll Ups are ‘made with 65% real fruit’
 Black & Decker corrected country of origin claims
 approved APT proposed acquisition of GasNet subject to AGL’s proposed divestiture of APT
 announced that broadband take-up strong and steady
 granted authorisation to Qantas–Orangestar cooperation agreement
 granted interim authorisation to CPM and CS Energy to commence joint negotiation for the purchase of coal
 instituted proceedings against Alinta Limited
 OneSteel and Smorgon requested ACCC continue pause of Smorgon acquisition assessment
 decided not to oppose baby car restraint merger
 issued draft decision on south-west Queensland gas pipeline
 proposed allowing an increase in the refrigerant gas levy
 proposed denying collective negotiations by major sport bodies
 \$1.525 million penalties against garnet producers for market-sharing arrangement
 sought leave for High Court appeal on Baxter Healthcare Crown immunity finding
 court declared Bon Levi bankrupt
 issued Telstra accounting separation report for June quarter 2006
 decided not to relieve Alinta of its undertaking to divest Agility service contracts

october 06

proposed to authorise revised capped fees for the Canberra After Hours Locum Medical Service
 rejected Alinta undertaking on Alinta/APT merger proposal
 alleged resale price maintenance by Topfield distributor
 acted against unsafe children’s swim vests
 raised concerns over misleading personal introduction service
 notified of two telecommunications access disputes—Optus Networks Pty Limited and Telstra Corporation Limited
 household furniture safety guide issued
 proposed to authorise CS Energy/CPM joint negotiation

Asia Source Australia's elastic luggage straps fail product safety standard
specialist nursery retailer fined \$860 000 for dangerous baby walkers and cot
TPA matters for small business: ACCC launched latest small business resource
issued statement of issues on proposed acquisition of Queensland Gas Company Limited by Santos Limited
confirmation of interim determinations in five telecommunications arbitrations
issued airports quality monitoring report
new SCAMwatch website launched for consumers—scams, swindles, rorts and rip-offs

november 06

issued report on Telstra's compliance with its price controls
notified of telecommunications access dispute—Optus Networks Pty Limited and Telstra Corporation Limited
comments call on Hexion Specialty Chemicals/Orica Australia acquisition proposal
issued 2005–06 container stevedoring monitoring report
issued final decision on south-west Queensland gas pipeline
proposed to deny Qantas/Air New Zealand tasman agreement
allowed industry refrigerant gas levy
proposed to authorise restrictions in a Queensland coal supply agreement
instituted against Kokos, IAE, Nanuri and others
granted interim approval to Melbourne metropolitan councils to collectively tender for bus shelters
comments call on Health Care Australia's proposed acquisition of Brisbane Waters Private Hospital
IATA transition arrangements approved by ACCC
accepted undertakings from pet food franchisor
proposed to remove surgeons' immunity for training arrangements
called 'time out' on unsafe basketball rings
notified of telecommunications access dispute—NEC Australia Pty Ltd and Telstra Corporation Limited
court declared internet service provider acted unconscionably
Dimplex chills out on 'environmentally friendly' claims
took court action against British American Tobacco over Dunhill wallet pack cigarettes
notified of access dispute in relation to declared services provided by Sydney Water
issued draft guides to new merger clearance, collective bargaining notification and revised authorisation processes
Dunhill cigarette wallet packs withdrawn from sale
issued discussion paper on analog pay-TV service declaration

authorised CS Energy/CPM joint negotiation
 obtained declaration against director of Info4pc
 welcomed Australian Competition Tribunal decision on Optus's supply of mobile terminating access service
 called for fair trading in food and beverage industry
 granted interim approval to the St George Region of Councils to commence a tender process for joint waste and recycling collection
 accepted Alinta undertaking on Alinta/APT merger proposal
 sought court injunctions over the RANA system cancer treatment
 issued statement of issues on proposed acquisition of Pfizer Inc.'s consumer healthcare business by Johnson & Johnson
 revoked grocery price guide authorisation
 notified of telecommunications access disputes—Telstra's supply of the line sharing service
 obtained court injunctions over the RANA system cancer treatment
 full Australia Post report issued
 issued draft copyright licensing guide for comment
 rejected Telstra's undertakings for fixed interconnection and local call resale services: sets indicative prices
 challenged Telstra
 issued seventh Telstra accounting separation current cost report

december 06

revoked Australian Institute of Building fee guide authorisation
 notified of telecommunications access disputes—Telstra Corporation Limited and Optus Mobile Pty Limited and Optus Networks Pty Limited
 decided to appeal decision against internet service provider
 new Foxtel special access undertaking for digital set-top unit service
 called for comment on the proposed acquisition of Promina Group Ltd by Suncorp Metway Limited
 concerned by JB Hi-Fi comparative advertising
 Optima admitted to resale price maintenance
 proposed to let National Library tender on behalf of other libraries
 called for comment on the proposed acquisition of Federal Publishing Company Community Newspaper Group by News Limited
 instituted proceedings against marine GPS navigation products company Navman for alleged resale price maintenance
 instituted against Prouds' two-price advertising practices
 Optus corrected ambiguous packaging claims

sought comments on variation to Toll undertakings
 updated on Santos' bid for Queensland Gas Company
 decided to oppose Health's proposed acquisition of Brisbane Waters Private Hospital
 \$100 000 penalties for secondary boycott
 penalised Topfield distributor \$238 000 for resale price maintenance
 conducted market inquiries on Johnson & Johnson's proposed divestiture
 allowed collective negotiations by major sport bodies
 confirmed changes to surgeons' immunity
 issued discussion paper on Foxtel digital set-top unit service special access undertaking
 issued discussion paper on licences for new digital television services
 reviewed proposed acquisition of Qantas
 highly toxic novelty item recalled: consumers warned
 consumers advised on how to protect their rights
 decides not to oppose merger between Suncorp Metway and Promina
 Menopause Institute admits deceiving its patients about menopause treatments
 Domino's to correct 'fresh dough' claims
 prosecuted Zamel's for false jewellery prices
 granted authorisation to restrictions within Queensland coal supply agreement
 issued Telstra accounting separation report for September quarter 2006
 safety checks for Christmas
 issued final decision on Roma to Brisbane pipeline revised access arrangement
 issued safety warning on vehicle LPG tanks
 quilt suppliers stopped false and misleading '100%' down content claims
 proposed to let Melbourne councils collectively tender for bus shelters
 accepted divestitures by Johnson & Johnson
 Woolworths penalised \$7 million for anti-competitive liquor deals

january 07

issued guides to collective bargaining notifications, revised authorisations and new merger clearance processes
 commenced review of Alinta proposal to acquire Origin infrastructure assets
 unsafe 'bus' bunk beds recalled
 union fined \$125 000 for Trade Practices Act breach
 decided not to oppose News Limited proposed FPC acquisition
 Australian Competition Tribunal decision further evidence of telco industry failure to offer reasonable access prices

proposed to approve High Value Clearing System rules

authorised the National Library of Australia to tender on behalf of other libraries

issued interim determinations and reasons in two line-sharing service telecommunications arbitrations

authorised revised capped fees for the Canberra After Hours Locum Medical Service

'was' pricing by bicycle retailer incorrect

issued first E10 petrol price monitoring report

settlement of ACCC action against timber merchants

decided not to oppose AGL Energy acquisition of a 30 per cent stake in Queensland Gas Company

praised voluntary reporting from Cadbury Schweppes

Nestlé withdrew application for review of ACCC decision

issued an information paper to assist on broadband speed advertising

decided not to oppose pipe and tube joint venture between Onesteel and Smorgon

considered Santos' new proposal to acquire QGC

issued statement of issues on proposed acquisition of Sydney Roads Group by Transurban Group

february 07

release of WIK consult mobile network and cost model, WIK report and discussion paper

StoresOnline customers got \$679 000 in refunds after ACCC legal action

access dispute in relation to declared service provided by Sydney Airport Corporation Limited

notified of telecommunications access disputes—Adam Internet Pty Ltd and Primus Telecommunications Pty Ltd against Telstra Corporation Limited

proposed to allow discount funerals for WA pensioners

alleged anti-competitive conduct by two cardiothoracic surgeons

highest ever penalty for resale price maintenance against skincare, cosmetics company Jurlique: \$3.4 million

published interim determinations in telecommunications access disputes

High Court to examine Baxter Healthcare's shield of immunity

power station operator penalised \$120 000

called for comment on Pacific Terminals' proposed acquisition of bulk liquid terminals from Craig Mostyn

approved High Value Clearing System rules

interim determinations in telecommunications access disputes

issued meat and livestock prices report

issued statement of issues on George Weston Food Limited's proposed acquisition of Rabkal Pty Ltd

approved SCT Logistics as purchaser of rail assets under Toll undertakings
 allowed Melbourne councils to collectively tender for bus shelters
 took legal action against insulation manufacturer over alleged misleading labelling
 Socrates recalled unsafe toy after ACCC investigation
 decided to oppose Santos' proposed acquisition of QGC
 called for tenders for the development of a fixed network services cost model
 varied Australian Property Institute authorisation
 issued fourth airport price monitoring report
 published confirmation of interim determinations in two telecommunications arbitrations
 proposed to grant authorisation to St. George Region of Councils for collective waste and recycling collection services
 trend of broadband growth continues: ACCC

march 07

issued guides and compliance manual to the Oilcode
 decided not to oppose proposed acquisition of Qantas Airways Limited by Airline Partners Australia Limited
 revoked competition notice lifted for Telstra's wholesale line rental price increase
 launched scams target you! protect yourself campaign
 launched scams target you! protect your money campaign
 ACCC and ACMA seek to share confidential media merger information
 instituted proceedings for misleading conduct and false price representations in relation to travelling rug and manchester sales
 filed additional claims in relation to the RANA System cancer treatment
 notified of two telecommunications access disputes—Primus Telecommunications Pty Ltd and Telstra Corporation Limited
 issued a Competing Fairly Forum DVD on collective bargaining
 unsafe nursery goods again under ACCC scrutiny
 issued discussion paper on access undertaking lodged by Optus for DGTAS
 decided not to oppose Pacific Terminals (Australia) Pty Ltd's proposed acquisition of bulk liquid terminals from Craig Mostyn & Co Pty Ltd
 decided not to oppose Townsville hospital merger
 decided not to oppose proposed acquisition of Sydney Roads Group Limited by Transurban Group Limited
 allowed Toll to divest Tasmanian Shipping and Forwarding businesses to Chas Kelly Group
 notified of Moomba to Sydney gas pipeline access dispute
 allowed discount funerals for WA pensioners

launched scams target you! protect your phone campaign

decided not to oppose proposed acquisition of Good Stuff Bakery by George Weston Foods Limited

granted urgent approval to system to reduce coal ship queue

outlined possible improvements in consumer protection

ACCC and AUSTRAC signed memorandum of understanding

accepted digital pay-TV undertaking from Foxtel

launched scams target you! protect your computer campaign

Ribena vitamin C claims 'may have misled consumers'

further resale price maintenance win for ACCC

granted authorisation to St George Region Councils for collective waste, recycling services

Federal Court ordered Beaver Sales to stop supply of high-lift jacks which do not meet product safety standard

launched scams target you! protect your identity campaign

notified of telecommunications access disputes—Netspace Pty Ltd and Telstra Corporation Limited

approved Roma to Brisbane pipeline revised access arrangement

second Australia Post report issued

proposed to grant authorisation to IATA passenger agency program

proposed to remove Agsafe's ability to impose trading sanctions

alleged attempted price fixing in funeral celebrants market

Federal Court declared contempt of court for non-compliance with court orders

issued guidelines on deferral of arbitrations and backdating of determinations under Part IIIA of the *Trade Practices Act 1974*

april 07

Jaggad Pty Ltd ceased resale price maintenance

proposed to approve amended system to reduce Newcastle coal ship queue

offered a revised variation to Toll Holdings undertakings

not entitled to issue competition notice

issued Telstra accounting separation report for December quarter 2006

decided not to oppose Northern Territory fuel retail, distribution acquisition

proposed to grant authorisation to GPs for fee-setting and hospital agreements

proposed to authorise the promotion of MTAA 'real times guide'

government issued fourth ACCC medical indemnity report

accepted undertakings from U. Games Australia Pty Ltd over Thomas & Friends swimming armbands

notified of telecommunications access dispute—Chime Communications Pty Ltd and Telstra Corporation Limited

outlined robust framework for review of existing regulation

proposed to authorise limited negotiations by car importers and exporters

required 'clean break' between Toll Logistics and infrastructure companies

accepted newspaper divestitures in Fairfax/Rural Press merger

issued statement of issues on proposed acquisition of Greif Australia by Drum Makers (Visy)

granted authorisation to Western Australian real estate agents

Dunhill wallet packs permanently removed from sale after ACCC action

mobile telephone franchising undertakings accepted

instituted legal proceedings against internet tobacco website registrant

may 07

cautioned traders and growers pre-dating farm produce supply agreements

proposed to allow Sky and TVN to share racing content

notified of a telecommunications access dispute—Telstra Corporation Limited and Chime Communications Pty Ltd

extended immunity for IATA passenger agency program

granted interim authorisation to Construction Materials Producers Association

issued transmission cost model discussion paper

comments call on Video Ezy/Blockbuster acquisition proposal

began criminal proceedings against real estate agent for allegedly providing false and misleading evidence

court found cancer sufferers exploited under the RANA System

monitored jewellery advertising

stopped supply of dangerous toys

announced that Telstra jibbing on Australian consumers

decided to consider variation of the unconditioned local loop service description

welcomed Australian Competition Tribunal decision that Telstra's unconditioned local loop service prices are unreasonable

cautioned traders, growers against signing non-compliant horticultural produce agreements

continued discussions with steel merger parties

gave final approval to amended system to reduce Newcastle coal ship queue

authorised GPs to collectively set fees and negotiate with hospitals

draft notices proposed revoking Seal-A-Fridge notifications

issued draft decision on Dawson Valley pipeline access arrangement
 received proposed access arrangement from GasNet Australia
 welcomed commercial resolution of access dispute between Virgin Blue and Sydney airport
 proposed to allow Victorian potato growers to collectively bargain
 published interim determinations in telecommunications arbitrations
 lodged submission to inquiry into Australia's consumer policy framework
 G9/FANOC FTTN lodged special access undertaking for the broadband access network service

June 07

notified of telecommunications access disputes—Telstra Corporation Limited with Vodafone Network Pty Limited and Telstra Corporation Limited with Hutchison 3G Australia Pty Limited
 'fair go'—ACCC to petrol retailers
 decision maintained Agsafe's ability to impose trading sanctions
 decided not to oppose proposed acquisition of Smorgon Steel Group Limited by OneSteel Limited
 allowed limited negotiation by car importers and exporters
 authorised promotion of MTAA 'real times guide'
 Bevco corrected misleading country of origin fruit juice labels
 insulation batts undertakings strengthened
 court declared false and misleading representations made on insulation rating labels
 consumers continued to reap benefits from competition in telecommunications
 giggling toy recalled by Socrates
 arbitration threat brought commercial solutions—regulator
 no appeal against Geelong petrol decision
 Bevilles Jewellers corrected two-price advertising
 complementary medicines incorrectly labelled 'made in Australia'
 considered rail access undertaking from Australian Rail Track Corporation
 comments sought on Healthscope Limited/ Symbion Health Limited proposal
 comments sought on proposed joint venture of PMP Limited/McPherson's Limited book printing businesses
 proposed to grant authorisation to the Construction Material Producers Association
 proposed to re-authorise Star Alliance Corporate Plus and Conventions Plus programs
 announced inquiry into petrol prices
 issued discussion paper on FANOC (G9) special access undertaking for broadband access services

issued draft decision to reject Optus's undertakings for mobile terminating access service

issued draft mobile terminating access service pricing principles determination and supporting documentation issued

secured \$270 000 boost to the organic food industry

ACMA and ACCC issued joint report on communications infrastructure and services availability

accepted undertaking from automotive parts importer

Australian Competition Tribunal affirmed ACCC's decision on extra reporting for Medicines Australia code

real estate agent pleaded guilty to providing false or misleading evidence to ACCC

released petrol issues paper

issued draft notice proposing to revoke GeelongPort notification

decided to allow Victorian potato growers to collectively bargain

alleged resale price maintenance by TEAC

part three
management and
accountability



The ACCC aims to have a high standard of governance and efficient management, including cost-effective use of resources in all its offices. This chapter reports on the ACCC and AER's governance, financial, people and information management, and other administrative activities.

this year the ACCC

- > received total government funding of \$107.518 million, including additional funding for the implementation of the Horticulture Code of Conduct, telecommunications regulatory function and the AER
- > employed 575.8 full-time equivalent employees
- > recruited 31 graduates for its 2007 graduate training program
- > undertook substantial planning, procurement and project management activities as part of the move of the national office in Canberra to new premises (scheduled for July 2007)
- > entered into agreements to lease additional office accommodation for the growth in its Melbourne operations (including taking additional office space at 313 Latrobe Street as an interim measure)
- > upgraded key information technology infrastructure in the Canberra and Melbourne offices to meet the growth in business operations across the ACCC
- > implemented an online recruitment portal, NGA.net
- > launched the SCAMwatch website
- > commenced a review of the design and architecture of the ACCC internet site

the ACCC

The ACCC comprises the chairman, deputy chair and five full-time members. They were appointed by the Governor-General for terms of up to five years after a majority of state and territory governments had supported the selections. Mr Steve Edwell and Mr Geoff Swier were appointed associate commissioners on an ex-officio basis. See appendix 4 for biographies and photographs of commissioners.

the Australian Energy Regulator

The AER commenced on 1 July 2005. It is an independent statutory authority and a constituent part of the ACCC. Its staff are employed by the ACCC. Mr Steve Edwell was appointed chairman of the AER for three years from 23 May 2005, and as a member for five years. Mr Ed Willett was appointed full-time Commonwealth member until 19 January 2008 (this appointment will be served concurrently with his ACCC appointment). Mr Geoff Swier was appointed part-time state/territory member until 29 June 2008. See appendix 5 for biographies and photographs of members.

decision-making structure

The ACCC's decisions are made at a meeting of the commission members held once a week and otherwise as necessary. **External scrutiny**—the ACCC is accountable for its activities through the courts, tribunals, parliament and the Commonwealth Ombudsman.

The ACCC held 56 formal meetings and considered 363 formal papers dealing with matters under investigation, litigation, mergers, access, adjudication, submissions to inquiries and compliance and education strategies, and received recommendations from its committees.

The AER's decisions are made at meetings of members, held once a fortnight and otherwise as necessary. The AER held 24 formal meetings.

committees

The ACCC has **five subject matter committees**: communications, mergers, enforcement, adjudication and transport and prices oversight. It has **six function committees**: corporate governance, information and liaison, internal audit, information and communications technology, people and resources and occupational health and safety. It also has an **employer–employee consultative committee** comprising elected staff representatives, management representatives and representatives of employee organisations.

subject matter committees

enforcement	David Smith (chair), Graeme Samuel, Louise Sylvan, Jennifer McNeill, John Martin—oversees the ACCC's enforcement program; recommendations are referred to the full commission for decision; meets weekly
mergers	Stephen King (chair), Graeme Samuel, Louise Sylvan, Jennifer McNeill—considers most merger matters and reports to the full commission; meets weekly
communications	Ed Willett (chair), Graeme Samuel, Louise Sylvan, David Smith—coordinates the ACCC's media and telecommunications regulatory functions, including enforcement of competition notices with the enforcement committee; meets as required
transport and prices oversight	John Martin (chair), Stephen King, Ed Willett—oversees pricing and regulatory issues in transport and other industries; meets as required
adjudication	Louise Sylvan (chair), Jennifer McNeill, Stephen King, John Martin, Ed Willett—considers authorisations and notifications; meets weekly

function committees

corporate governance	chairman, deputy chair, commissioners, chief executive officer and senior staff; meets quarterly
information and liaison	chief executive officer and staff involved in the ACCC's communication and outreach activities; meets monthly
internal audit	chief executive officer, ANAO representatives, independent member and senior staff; meets quarterly
information and communication technology	senior staff; meets quarterly
people and resources	senior staff; meets quarterly
occupational health and safety	corporate manager and staff representing workplace; meets quarterly
workplace relations consultative committee	representatives of employer, employees and employee organisations; meets quarterly

terms of appointment

appointed until

ACCC

chairman

Graeme Samuel 31 July 2008

deputy chair

Louise Sylvan 31 July 2008

commissioners

Stephen King 6 June 2009

David Smith 6 June 2009

John Martin 6 June 2009

Jennifer McNeill 21 July 2007

Edward Willett 19 January 2008

ex-officio members

Geoff Swier 29 June 2008

Steve Edwell 22 May 2010

AER

chairman

Steve Edwell 22 May 2008

members

Edward Willett (full-time Commonwealth member) 19 January 2008

Geoff Swier (part-time member) 29 June 2008

financial management

See also pp. 23-5 in the Performance section of this report.

The financial management of the ACCC is undertaken on a sound basis of budget setting, variance analysis and reporting in a context of coordinated corporate planning, business unit planing and financial planning. Managers are provided with internal budget guidance that articulates the financial management arrangements, including framework and timetable details. Financial monitoring and reporting is undertaken on a monthly basis with more detailed reviews each quarter.

The ACCC continues to work closely with the Treasury, Department of Finance and Administration and the Australian National Audit Office (ANAO), as key stakeholders, to ensure that financial performance is aligned to expectations.

The ACCC received audit clearance of its financial statements from the ANAO on 29 August 2007. The ANAO issued an unqualified report with no findings being made regarding its audit of the financial statements.

purchasing performance

The department's purchasing activities are undertaken in accordance with the *Commonwealth procurement guidelines* and *Best practice guidelines*.

The *Chief Executive's Instructions* and other supporting guidance assists staff by outlining the appropriate procedures to undertake purchasing activities. A purchasing manual and a credit card manual have been developed to provide more detailed instructions. Standard requests for tender and contract documentation have been developed to ensure that the clauses and requirements reflect government policy.

The ACCC continually improves the efficiency and effectiveness of the procurement to payment processes including contract management. The ACCC aims to balance the benefits of goods and services to be purchased against their costs and risks so that the best value for money is achieved.

The ACCC has assurance and reporting processes in place to ensure that it complies with government requirements. This includes the publication of its annual procurement plan and all procurements greater than \$10 000 on AusTender, and listing contracts of \$100 000 or more on the website in accordance with the Senate Order on departmental and agency contracts.

fraud control

The ACCC complies with the Commonwealth fraud control guidelines and has in place appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes that meet the needs of the agency. A fraud awareness training module has been developed and training is provided to target staff as required.

consultants

During 2006–07, 91 new consultancy contracts were entered into involving total expenditure of \$5.9 million. Thirty ongoing consultancy contracts were active during the 2006–07 year, involving total expenditure of \$2.2 million. Full details of consultancy contracts let with a value of \$10 000 or more are available on the ACCC website.

A total of \$403 298 was paid by the ACCC for advertising during the 2006–07 financial year. A listing of total payments to organisations in excess of \$1500 appears below.

organisation	description	\$
HMA Blaze Pty Ltd	public notices, expressions of interest, recruitment	376 397
Regional Radioworks	outreach communications	16 338
Attorney-General	Gazette	2 210

people management

The ACCC's budgeted **staff level** for 2006–07 was 588 full-time equivalents (533 in 2005–06), including eight full-time holders of public office (ACCC members and AER member) and one part-time holder of public office (AER). The total average full-time equivalents employed during the year was 575.8 people (up from 506.6 in 2005–06). The difference between the budgeted and actual staff level is, in part, a result of the delay in legislative amendments affecting the ACCC's mergers and adjudication functions. The total actual number of staff employed (including commission members, part-time employees, employees absent on leave and secondments) at 30 June 2007 was 660 (596 on 30 June 2006). There were 179 commencements and 111 cessations during the year. See p. 156 for staffing overview.

Staffing statistics and payroll information is managed in an Aurion database. Enhancements to the database mean that managers are able to make statistical queries for workforce planning purposes. Aurion Timekeeper system was installed and is being tested before a decision is made to replace the current paper-based attendance recording system.

The ACCC implemented NGA.net, an online recruitment portal and suite of application management tools. This system provides prospective applicants with details of ACCC vacancies through the ACCC's internet site. Applicants are able to register

and submit their applications online. This system provides considerable efficiencies in the management of recruitment and associated communications. It reduces the administrative and processing workload associated with the recruitment function.

The ACCC's learning and development strategy for the year continued to focus on providing managers and staff with systems for planning and delivering structured professional development. These initiatives included updates to the professional development journal; regular orientation sessions in the locations where recruitment has been greatest (Melbourne, Canberra and Sydney); 30 multimedia productions as part of the 'Get Smart' knowledge capture initiative; delivery of micro-economics refresher courses; and warrants and searches courses for which staff have the opportunity for assessment by a registered training organisation for a certification of attainment of six competencies in the Certificate IV in Government (Investigation).

Training and development costs in 2006–07 totalled \$2 291 037. This comprised salaries of staff on development activities (\$760 609); salaries of the learning and development unit employees (\$424 247); courses and conference fees and study assistance (\$673 229); costs of staff travel for training purposes (\$353 961); and venue hire and various other costs (\$78 991). These costs represent 4.4 per cent of the annual payroll.

courses and seminars, number of events for 2005–06 and 2006–07

type	number of events	
	2005–06	2006–07
operational skills and knowledge (this incorporates the 'Operational skills', 'IT skills' and 'Personal development' classifications of previous years)	1093	903
legal skills and knowledge	197	156
applying the Act (this includes the 'Investigations skills' course that was reported under 'Legal' in previous years)	159	132
economics and regulatory	275	230
leadership supervision and management	636	202

Employees are eligible for **study assistance** in the form of study leave and partial reimbursement of tuition fees for approved courses of study. During the year 60 employees participated in the study assistance scheme, mainly for postgraduate studies in economics, law and business. The ACCC reimbursed \$68 882 in fees and granted leave with pay to attend lectures and tutorials equivalent to \$92 962 in paid time.

The ACCC recruited 38 **graduates** at the beginning of 2006; 37 remained with the ACCC after the program was completed and gained promotions. The ACCC recruited 31 graduates for its 2007 program. Each will undertake three rotations during the 10-month graduate training program.

International exchanges: reciprocal staff exchanges were conducted with New Zealand, the United Kingdom and Chinese Taipei. During the year productivity improvements associated with the ACCC certified agreement 2006–08 were progressively implemented, such as increased capacity through acquisition of additional skills relating to new functions and changes in legislation, especially in the enforcement area, and efficiencies arising from the implementation of the legal services review.

Under the ACCC certified agreement, in accordance with the *Public Service Act 1999*, staff can request a review of employment action or decision that affects them. One such request was received this year.

The ACCC's formal employee consultative body is the **Workplace Relations Consultative Committee (WRCC)** with eight staff representatives (elected by staff), two employee organisation representatives requested by staff and a management representative. Employees covered by the agreement received a 4 per cent **salary increase** in December 2006.

Senior executive staff employees are employed under Australian workplace agreements (AWAs). Eight new AWAs were offered to non-SES employees.

Performance pay is not paid to non-SES. They are eligible instead for the special salary level scheme (criteria for which is in the certified agreement); during 2005–06, 40 staff received additional salary under this scheme. Performance pay was paid to 24 senior executive staff at band 1 and band 2 levels for a total of \$281 151.

The ACCC has an **occupational health and safety** agreement and policy with representatives elected for all workgroups, as well as first aid officers. Professionally qualified assessors conducted ergonomic assessments for 178 new employees and for those employees requiring review due to injury. Influenza vaccinations were made available to all employees. In May employees were offered the opportunity to participate in Crook-Back Clinics. Two hundred and eighty-two staff attended an hour program that provided strengthening and flexibility exercises for preventing back problems. Fifteen injury incidents were reported in 2006–07.

The ACCC's **Comcare premium** for 2006–07 was set at 0.92 per cent of total salaries, compared with the all agencies combined rate of 1.77 per cent. The premium for 2007–08 has been set at 0.72 per cent of total salaries, compared with the all agencies combined rate of 1.55 per cent. This continues a four-year trend of achieving lower Comcare premiums and having lower premiums compared with the average rate for Commonwealth agencies.

The **employee assistance program** was used by 40 staff and three family members. It also provided mediation services and assistance to managers.

The ACCC has **equity and diversity** officers throughout the organisation who distribute information and offer support to staff, and the workplace diversity coordinator regularly publishes articles in the ACCC's weekly staff newsletter. The ACCC also has workplace harassment contact officers in each work location.

information and communications

The contract for the delivery of facilities management and database administration services with ASG (formerly Exceed Systems Integration Pty Ltd) was extended via a one-year option to expire 30 June 2008. A similar extension was made for wide area network services provided by AAPT and video-bridging services with ACT Teleconferencing.

The major projects undertaken during the year include:

- > complex planning and preparation for the relocation of the national office in Canberra to new premises; nearly all ICT infrastructure and servers were relocated to the new office in June 2007 before the movement of staff scheduled for July 2007
- > the ICT fit-out and network expansion for the additional office space leased at Latrobe Street, Melbourne
- > the replacement of all PCs in the Canberra office
- > the replacement of all file/print and email servers nationally
- > the introduction of Ringtail/Casebook to assist in case management
- > redesign of the GEMS database
- > the expansion of the Remote Access System to include wireless broadband
- > significant redevelopment work to TRACKIT, GEMS and ACCC speeches and presentations databases.

In line with the implementation of the ACCC business continuity framework, a number of changes have been implemented in information technology to assist in disaster recovery. These include:

- > a Melbourne-based hot site for the Finance 1 server
- > a second link to the internet from the Melbourne office to provide redundancy and load balancing
- > automatic cutover for email routing between state offices should the Canberra office be disabled, such as through a total power outage.

Sixty per cent of staff have been trained in the use of TRIM Context in preparation for the introduction of a **record-keeping** policy that will make electronic record keeping mandatory. This training has improved the ACCC's ability to meet the national archiving guidelines for electronic document management. A national file sentencing project continued during the year, resulting in all files except those created in 2002–03 being sentenced for disposal; 9165 files were created (compared with 6180 in 2005–06); and 107 509 new records were created in TRIM (compared with 62 813 in 2005–06).

During the year changes were made to the **ACCC website** to reflect new procedures for the mergers public registers and changes to notification processes (launched January 2007). The **SCAMwatch** website rebuild was completed and the site launched. A project to review and redesign the ACCC website was commenced. The web team completed 89 development projects and resolved 329 feedback requests from the ACCC, AER and SCAMwatch websites. During the year the ACCC internet site received 1 869 645 visits; the AER internet site, 88 554 visits; and the SCAMwatch internet site, 284 897 visits.

The **library service** focuses on electronic resources and provides research services. Services are available to ACCC staff across Australia from the national office—1521 requests for information were received (420 were followed up with research activity), 4133 items were borrowed from the collection, 442 items were acquired on inter-library loan, 2541 journals were circulated to staff and 1136 new items were added to the collection.

The ACCC produced and released 117 new **publications** for business, industry and consumers in print, electronic and multimedia formats. These initiatives included:

- > a new fact sheet series presenting topical issues relevant to small business and consumers concerning trade practices issues; the series is broadly distributed through industry and consumer protection networks
- > a range of information materials to assist with the introduction of two new mandatory codes: the Oilcode and the Horticulture Code
- > a review and update of information guides to the Trade Practices Act provided to business and consumers following the amendments to the Act
- > seven new child safety alert brochures identifying high-risk products for children with advice on how to provide and maintain a safe environment when using these products
- > information campaigns targeted to non-English speaking audiences (e.g. a child safety booklet in Arabic and information on the Horticulture Code in Arabic, Khmer, Punjabi, Vietnamese and Chinese)
- > distribution of over 1.1 million published items.

The ACCC website received 270 000 visits to online publications. For more information on publications see appendix 3.

Twenty-nine statutory and voluntary **public registers** are maintained, including for s. 87B undertakings, authorisations, notifications, mergers and acquisitions, access to services, product safety conferences and telecommunications (e.g. competition notices, access undertakings and agreements and tariff information). See appendix 2 for more information.

legal services

The legal service requirements of the ACCC and AER are provided by in-house legal staff and a panel of law firms. Panel firms for the ACCC are the Australian Government Solicitor, Corrs Chambers Westgarth, Phillips Fox and Thomson Playford.

The ACCC's panel firms provide legal services in both the enforcement and non-enforcement areas of the operations of the ACCC and the AER. The panel arrangements are in place for an initial period to the end of 2007.

The Legal Group of the ACCC consists of two units. The Trade Practices and Litigation Unit focuses on the provision of legal services to the enforcement, mergers and adjudication branches of the ACCC. The Corporate and Regulatory Law Unit focuses on the provision of legal services to the ACCC and the AER on corporate in-house issues and regulatory matters.

other governance activities

During the year the revised ACCC **service charter** was published and made available from each office and online. The ACCC received 21 compliments and three complaints from the public on its standards of service during the year.

Because public confidence in the integrity of the ACCC and its employees is vital, every employee is asked to undertake an annual **conflict of interest** self assessment. As a general rule, gifts and hospitality are not accepted because they could compromise, or be perceived to compromise, the integrity of the ACCC, its office holders and employees. When accepted, gifts and hospitality must be declared using an online register.

The ACCC orientation programs, various training events and policy and procedure documents remind employees of their conduct responsibilities as set out in the **APS Code of Conduct**. A series of scenario-based training sessions were held for managers on the APS Values. During the year, one formal misconduct investigation was completed; no breach of the code was found.

The **Audit Committee** met four times during 2006–07 to oversee and control internal audit activities, risk management, fraud control, business continuity planning, adoption of the Certificate of Compliance arrangements (an Australian Government initiative to strengthen agency compliance with the *Financial Management and Accountability Act 1997* and associated policies) and the financial statements. During the year audits were undertaken on leave arrangements and FMA Act compliance. While no major control weaknesses were identified, a number of improvements were suggested, which have been implemented. The Audit Committee also oversaw the implementation of the ACCC business continuity arrangements as part of improvements to the risk management framework. The business continuity plan provides a detailed mechanism for managing events that could adversely affect the agency's key business operations.

The **Commonwealth disability strategy** is about making sure that Australian Government departments remove barriers that stop people with disabilities having access to policies, programs and services. Through its disability action plan the ACCC has identified that it has three core business roles—regulator, purchaser and employer—and has formulated actions to address its responsibilities regarding people with disabilities in these roles. The ACCC's internet site complies with most priority one requirements of the WWW Consortium web accessibility initiatives.

Nine offices are maintained: one in each state and territory, and in Townsville. Additional satellite offices are maintained in Canberra and Melbourne due to growth in ACCC functions and related staffing numbers. Public contact hours for Canberra, Melbourne and Sydney offices are 8.30 am to 5.30 pm each week day. For other regional offices it is 9 am to 5 pm.

ecologically sustainable development

The ACCC aims to identify, implement and promote best practice in environmental management, to operate in an ecologically sustainable manner and to provide an environmentally sound workplace that conforms to occupational health and safety requirements.

The ACCC has developed a register of potential actions that could assist with the minimisation of the effect of the ACCC's activities on the environment. The register is regularly reviewed to identify any initiatives that could be implemented. Before implementation, all potential actions are reviewed against the environmental benefit, the cost or saving involved and any system or process that measures the benefit.

measures taken to minimise the ACCC's impact on the environment

To reduce the environmental impact of its activities, the ACCC is:

- > buying 10 per cent green electricity for the Canberra office
- > procuring office equipment with low energy use and power-save modes
- > recycling paper and cardboard products, including the pulping of classified waste and use again office envelopes
- > using LCD computer screens instead of CRT screens
- > using recycled toner cartridges where possible
- > disposing of toner cartridges through a recycling outlet
- > implementing duplex printing and photocopying
- > disposing of mobile phones and batteries through a recycling outlet
- > servicing vehicles in accordance with manufacturers' specifications
- > using E10 fuels for fleet vehicles where possible.

The ACCC buys goods and services in accordance with environmental purchasing guides promoted by the Department of Environment and Heritage. This ensures that goods and services are:

- > environmentally sound in manufacture
- > reusable or recyclable
- > designed and made for reliability and long life
- > environmentally best practice in energy efficiency and/or energy consumption.

The ACCC is finalising the fit-out of a newly leased national headquarters in Canberra. The building is designed to achieve a 4.5 star Australian Building Greenhouse Rating. This is the recommended best practice standard for government office accommodation.

energy management

The ACCC's overall energy consumption is in line with the Australian Government energy consumption targets. In three of the ACCC's leased office spaces, there are mechanisms to measure actual electricity use which allows the ACCC to monitor, profile and diagnose energy consumption more effectively.

staffing

number of employees at 30 June 2007

	Canberra	Sydney	Melbourne	Brisbane	Perth	Adelaide	Hobart	Townsville	Darwin	total this year	total last year
graduates total	9	6	10	1	1	1	1	1		30	34
female	6	3	6	1		1	1	1		19	15
male	3	3	4		1					11	19
APS1 total	5		5		1					11	10
female	1		2		1					4	6
male	4		3							7	4
APS2 total	5	3	2	1				1	1	13	14
female	4	3	1	1				1	1	11	12
male	1		1							2	2
APS3 total	29	5	7	1	1	2				45	30
female	22	5	7	1	1	2				38	25
male	8									8	5
APS4 total	40	10	19	3	1	4			1	78	71
female	26	8	9	2		3			1	49	37
male	14	2	10	1	1	1				29	34
APS5 total	34	10	24	6	3	2	1	1	1	82	83
female	22	4	10	2	2			1	1	42	48
male	12	6	14	4	1	2	1			40	35
APS6 total	43	21	49	6	7	6	2		3	137	109
female	25	10	19	5	4	3			3	69	51
male	18	11	30	1	3	3	2			68	58
EL1 total	39	12	47	7	2	4		1	1	113	117
female	20	7	22	2		2		1		54	56
male	19	5	25	5	2	2			1	59	61
EL2 total	41	11	41	3	2	6	1		2	107	90
female	16	5	15	3		1			1	41	30
male	25	7	26		2	5	1		1	67	60

	Canberra	Sydney	Melbourne	Brisbane	Perth	Adelaide	Hobart	Townsville	Darwin	total this year	total last year
SESB1 total	11	2	8	3	1					25	22
female	3		2							5	5
male	8	2	6	3	1					20	17
SESB2 total	3		4							7	6
female	1		1							2	2
male	2		3							5	4
SESB3 total	1									1	1
female											
male	1									1	1
ACCC employees total	261	81	216	31	19	25	5	4	9	651	587
female	146	45	94	17	8	12	1	4	7	334	287
male	115	36	122	14	11	13	4		2	317	300
public office holders total	3	2	4							9	9
female	2									2	2
male	2	1	4							7	7
total employees	265	82	220	31	19	25	5	4	9	660	596
female	148	45	94	17	8	12	1	4	7	336	289
male	117	37	126	14	11	13	4		2	324	307

The total number of full-time equivalent employees for 2006–07 was 575.8.

The total number of actual employees on 30 June 2007 was 660, including 9 public office holders and 27 inoperative staff (long-term leave both paid and unpaid or secondment to other organisations).

senior executive employees at 30 June 2007

	Canberra	Sydney	Melbourne	Brisbane	Perth	Adelaide	Hobart	Townsville	Darwin	total this year	total last year
SES band 1											
female	3		2							5	5
male	8	2	6	3	1					2	17
SES band 2											
female	1		1							2	2
male	2		3							5	4
SES band 3											
female											
male	1									1	1
total this year	15	2	12	3	1					33	
total last year	16	1	10	2							29

part-time employees at 30 June 2007

	Canberra	Sydney	Melbourne	Brisbane	Perth	Adelaide	Hobart	Townsville	Darwin	total this year	total last year
female	25	10	13	6	1	2			1	58	45
male	6	1	6							13	15
total this year	31	11	19	6	1	2			1	71	60
total last year	23	12	13	6	1	4			1		60

temporary employees at 30 June 2007

	Canberra	Sydney	Melbourne	Brisbane	Perth	Adelaide	Hobart	Townsville	Darwin	total this year	total last year
female	17	2	5		1				1	26	18
male	13		9							22	22
total this year	30	2	14		1				1	48	
total last year	23	2	10	1	2	2					40

equal opportunity target groups at 30 June 2007

	APS 1-2 per cent of total		APS 3-4 per cent of total		APS 5-6 per cent of total		EL 1-2 per cent of total		SES & POH per cent of total		total
non-English speaking											
this year	11	1.7	26	3.9	24	3.6	32	4.8	1	0.2	94
last year	9	1.5	16	2.7	20	3.4	30	5.0	2	0.3	77
people with disabilities											
this year	1	0.2	1	0.2	1	0.2	6	0.9			9
last year			2	0.3	2	0.3	4	0.7			8
women											
this year	34	5.2	87	13.2	111	16.8	95	14.4	9	1.4	336
last year	33	5.5	62	10.4	99	16.6	86	14.4	9	1.5	289
Aboriginal and Torres Strait Islanders											
this year	1	0.2	1	0.2							2
last year	2	0.3									2
total staff											
this year	54	8.2	124	18.8	219	33.2	221	33.5	42	6.4	660
last year	58	9.7	101	16.9	192	32.2	207	34.7	38	6.4	596

part four
financial statements





INDEPENDENT AUDITOR'S REPORT

To the Treasurer

Scope

I have audited the accompanying financial statements of the Australian Competition and Consumer Commission for the year ended 30 June 2007, which comprise: a statement by the Chairman, Chief Executive Officer and Chief Finance Officer; Income Statement; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedules of Commitments, Contingencies and Administered Items; a summary of significant accounting policies; and other explanatory notes.

The Responsibility of the Chief Executive for the Financial Statements

The Australian Competition and Consumer Commission's Chief Executive is responsible for the preparation and fair presentation of the financial statements in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997* and the Australian Accounting Standards (including the Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. My audit has been conducted in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These Auditing Standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Australian Competition and Consumer Commission's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Australian Competition and Consumer Commission's internal control.

GPO Box 707 CANBERRA ACT 2601
19 National Circuit BARTON ACT
Phone (02) 6203 7300 Fax (02) 6203 7777

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Australian Competition and Consumer Commission's Chief Executive, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the ethical requirements of the Australian accounting profession.

Auditor's Opinion

In my opinion, the financial statements of the Australian Competition and Consumer Commission:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, and the Australian Accounting Standards (including the Australian Accounting Interpretations); and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Australian Competition and Consumer Commission's financial position as at 30 June 2007 and of its financial performance and its cash flows for the year then ended.

Australian National Audit Office



Jocelyn Ashford
Executive Director

Delegate of the Auditor-General

Canberra

29 August 2007

statement by the Chairman, Chief Executive Officer and
Chief Finance Officer

In our opinion, the attached Financial Statements for the year ended 30 June 2007 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.



Graeme Samuel
Chairman

29 August 2007



Brian Cassidy
Chief Executive Officer

29 August 2007



Adrian Brocklehurst
Chief Finance Officer

29 August 2007

income statement

for the year ended 30 June 2007

	Notes	2007 \$'000	2006 \$'000
INCOME			
Revenues			
Revenue from Government	3A	107 518	89 794
Sale of goods and rendering of services	3B	499	1 396
Total Revenues		108 017	91 190
Gains			
Gains from sale of assets	3C	13	22
Other Gains	3D	75	72
Total gains		88	94
TOTAL INCOME		108 105	91 284
EXPENSES			
Employee benefits	4A	53 336	47 042
Suppliers	4B	47 961	35 379
Depreciation and amortisation	4C	1 663	1 701
Write-down and impairment of assets	4D	24	25
Losses from asset sales	4E	86	-
Finance Costs	4F	-	21
TOTAL EXPENSES		103 070	84 168
Surplus (Deficit)		5 035	7 116

The above statement should be read in conjunction with the accompanying notes.

balance sheet

as at 30 June 2007

	Notes	2007 \$'000	2006 \$'000
ASSETS			
Financial assets			
Cash and cash equivalents	5A	1 008	1 599
Trade and other receivables	5B	55 626	45 061
Total financial assets		56 634	46 660
Non-financial assets			
Leasehold improvements	6A C	4 626	1 286
Infrastructure plant and equipment	6B C	3 559	2 184
Intangibles	6D	534	208
Inventories	6E	75	118
Other non-financial assets	6F	749	663
Total non-financial assets		9 543	4 459
TOTAL ASSETS		66 177	51 119
LIABILITIES			
Payables			
Suppliers	7A	4 883	2 516
Other payables	7B	1 597	524
Total payables		6 480	3 040
Provisions			
Employees	8A	13 778	12 414
Other provisions	8B	1 857	596
Total provisions		15 635	13 010
TOTAL LIABILITIES		22 115	16 050
NET ASSETS		44 062	35 069
EQUITY			
Contributed equity		33 025	29 067
Reserves		968	968
Retained Surplus (Accumulated deficit)		10 069	5 034
TOTAL EQUITY		44 062	35 069
Current assets		57 421	47 358
Non-current assets		8 756	3 761
Current liabilities		17 724	13 378
Non-current liabilities		4 391	2 672

The above statement should be read in conjunction with the accompanying notes.

statement of changes in equity

for the year ended 30 June 2007

	Accumulated Results		Asset Revaluation Reserve		Contributed Equity/Capital		Total Equity	
	2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000
Opening Balance								
Balance carried forward from previous period	5 034	(2 082)	968	968	29 067	27 092	35 069	28 391
Adjustment for errors	-	-	-	-	-	-	-	-
Adjustment for changes in accounting policy	-	-	-	-	-	-	-	-
Adjusted Opening Balance	5 034	(2 082)	968	968	29 067	27 092	35 069	25 978
Income and Expense								
Surplus (Deficit) for the period	5 035	7 116	-	-	-	-	5 035	7 116
Total income and expenses								
of which:								
attributable to the Australian Government	5 035	7 116	-	-	-	-	5 035	7 116
Transactions with Owners								
<i>Distributions to owners</i>								
<i>Contributions by Owners</i>								
Appropriation (equity injection)	-	-	-	-	3 958	1 975	3 958	1 975
Sub-total	-	-	-	-	3 958	1 975	3 958	1 975
Transactions with Owners								
Closing Balance at 30 June	10 069	5 034	968	968	33 025	29 067	44 062	35 069

The above statement should be read in conjunction with the accompanying notes.

cash flow statement

for the year ended 30 June 2007

	Notes	2007 \$'000	2006 \$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations		100 344	78 525
Goods and services		629	9 715
Net GST received		4 036	4 311
Total cash received		105 009	92 551
Cash used			
Employees		(51 974)	(44 977)
Suppliers		(50 977)	(48 303)
Total cash used		(102 951)	(93 280)
Net cash from or (used by) operating activities	9	2 058	(729)
INVESTING ACTIVITIES			
Cash received			
Proceeds from sales of property, plant and equipment		38	63
Total cash received		38	63
Cash used			
Purchase of property, plant and equipment		(3 165)	(1 235)
Purchase of intangibles		(562)	(83)
Total cash used		(3 727)	(1 318)
Net cash from or (used by) investing activities		(3 689)	(1 255)
FINANCING ACTIVITIES			
Cash received			
Appropriations—contributed equity		1 040	1 975
Total cash received		1 040	1 975
Net cash (used by) financing activities		1 040	1 975
Net increase / (decrease) in cash held		(591)	(9)
Cash at the beginning of the reporting period		1 599	1 608
Cash at the end of the reporting period	5A	1 008	1 599

The above statement should be read in conjunction with the accompanying notes.

schedule of commitments

as at 30 June 2007

	2007 \$'000	2006 \$'000
BY TYPE		
Capital Commitments		
Leasehold improvements	1 975	5 099
Total Capital Commitments	1 975	5 099
Other Commitments		
Operating leases ¹	89 712	66 498
Contract for IT services ²	1 886	1 284
Contract for Legal Services ³	79	298
Other commitments ⁴	4 335	4 274
Total other commitments	96 012	72 354
Commitments receivable - GST recoverable	(8 908)	(6 578)
Net commitments	89 079	70 875

Net commitments by type

BY MATURITY

Capital Commitments		
One year or less	1 796	5 099
Total capital commitments	1 796	5 099
Operating lease commitments		
One year or less	5 725	3 963
From one to five years	29 319	21 931
Over five years	46 512	34 559
Total Operating lease commitments by maturity	81 556	60 453
Non-operating lease commitments		
One year or less	4 936	4 438
From one to five years	791	885
Total non-operating lease commitments by maturity	5 727	5 323
Net commitments by maturity	89 079	70 875

NB: All commitments are GST inclusive where relevant.

¹ Operating leases included are effectively non-cancellable and comprise:

Leases for office accommodation

Lease payments are subject to annual increases of between 3% and 4.15% per annum. Lease terms are between two and fifteen years with the majority of leases containing an option to renew for a further term of up to five years.

Agreement for the provision of motor vehicles to senior executive officers

No contingent rentals exist. There are no renewal or purchase options available to the Agency.

² A contract for services.

³ A contract for provision of legal services.

⁴ Other commitments included are for contracts entered into for various services to be performed.

The above schedule should be read in conjunction with the accompanying notes.

schedule of contingencies

as at 30 June 2007

Contingent liabilities	Claims for damages/costs	
	2007	2006
	\$'000	\$'000
Balance from previous period	5 882	9 683
New	19	1 462
Re-measured	(3 000)	(263)
Liabilities crystallised	(650)	–
Obligations expired	(1 255)	(5 000)
Total Contingent Liabilities	996	5 882
Contingent assets	–	–
Net contingent liabilities	996	5 882

Details of each class of contingent liabilities and assets, including those not included above because they cannot be quantified or are considered remote, are disclosed in **Note 10: Contingent Liabilities and Assets**.

The above schedule should be read in conjunction with the accompanying notes.

schedule of administered items

	Notes	2007 \$'000	2006 \$'000
Income administered on behalf of government			
<i>for the period ended 30 June 2007</i>			
Revenue			
Non-taxation revenue			
Fees and fines	15	23 433	21 053
Total non-taxation revenue		23 433	21 053
Total revenues administered on behalf of government		23 433	21 053
Expenses administered on behalf of government			
<i>for the period ended 30 June 2007</i>			
Write-down of assets	16	5 414	4 121
Total expenses administered on behalf of government		5 414	4 121
Assets administered on behalf of government			
<i>as at 30 June 2007</i>			
Financial Assets			
Cash and cash equivalents	17A	5	1
Receivables	17B	2 497	4 334
Total assets administered on behalf of government		2 502	4 335
Liabilities administered on behalf of government			
<i>as at 30 June 2007</i>			
Payables			
Suppliers	18	–	–
Total liabilities administered on behalf of government		–	–
This schedule should be read in conjunction with the accompanying notes.			

schedule of administered items (continued)

	Notes	2007 \$'000	2006 \$'000
Administered cash flows			
<i>for the year ended 30 June 2007</i>			
Operating Activities			
Cash received			
Fines and costs		19 444	20 209
Authorisation fees		396	401
Other		16	15
Total cash received		19 865	20 625
Net cash from or (used by) operating activities		19 856	20 625
Net increase (decrease) in cash held		19 856	20 625
Cash at the beginning of the reporting period		1	1
Cash to Official Public Account for:			
—Appropriations		(19 852)	(20 625)
Cash at the end of the reporting period	17A	5	1
Administered contingencies			
<i>as at 30 June 2007</i>			
		Claims for Damages or costs	
		2007 \$'000	2006 \$'000
Administered contingent liabilities		–	–
Administered contingent assets			
Balance from previous period		5 078	3 495
New		2 790	1 723
Re-measured		–	25
Assets crystallised		(3 606)	(60)
Obligations expired		(590)	(105)
Total administered contingent assets		3 672	5 078
Net contingent assets		3 672	5 078
Details of each class of contingent liabilities and assets, including those not included above because they cannot be quantified or are considered remote, are disclosed in Note 20: Administered Contingent Liabilities and Assets .			
This schedule should be read in conjunction with the accompanying notes.			

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the year ended 30 June 2007

Note

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- 2 Events after the Balance Sheet Date
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- 4 Expenses
- 5 Financial Assets
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- 7 Payables
- 8 Provisions
- 9 Cash Flow Reconciliation
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- 19 Administered Reconciliation Table
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- 22 Appropriations and Special Accounts
- 23 Special Accounts
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- 25 Reporting of Outcomes

for the year ended 30 June 2007

Note 1 Summary of significant accounting policies

1.1 Objectives of the Australian Competition and Consumer Commission (the Commission)

The objectives of the Commission are to:

- promote effective competition and informed markets;
- encourage fair trading and protect consumers; and
- regulate the infrastructure services market and other markets where competition is restricted.

The Commission's outcome is to enhance social and economic welfare of the Australian community by fostering competitive, efficient, fair and informed Australian markets.

The Commission's activities contributing towards this outcome are classified as either Departmental or Administered. Departmental activities involve the use of assets, liabilities, revenues and expenses controlled or incurred by the Commission in its own right. Administered activities involve the management or oversight by the Commission, on behalf of the Government, of items controlled or incurred by the Government.

The Commission's outcome is separated into two sub-outputs as follows:

Output 1.1 | Compliance with competition, fair trading and consumer protection laws and appropriate remedies when the law is not followed.

Output 1.2 | Competitive market structures and informed behaviour.

The continued existence of the Commission in its present form and with its present programs is dependent on Government Policy and on continuing appropriations by Parliament for the Commission's administration and programs.

1.2 Basis of Preparation of the Financial Report

The Financial Statements and notes are required by section 49 of the *Financial Management and Accountability Act 1999* and are a General Purpose Financial Report.

The Financial Statements and notes have been prepared in accordance with:

- Finance Minister's Orders (FMOs), for reporting periods ending on or after 1 July 2006; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial report has been prepared on an accrual basis and is in accordance with the historical cost convention, except for certain assets at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial report is presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless an alternative treatment is specifically required by an Australian Accounting Standard or the FMO's, assets and liabilities are recognised in the Balance Sheet when and only when it is probable that future economic benefits will flow to the Commission and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under agreements equally proportionately unperformed are not recognised unless required by an Accounting Standard. Liabilities and assets that are unrealised are reported in the Schedule of Commitments and the Schedule of Contingencies (other than unquantifiable or remote contingencies, which are reported at Note 10).

Unless an alternative treatment is specifically required by an accounting Standard, revenues and expenses are recognised in the Income Statement when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

Administered revenues, expenses, assets and liabilities and cash flows reported in the Schedule of Administered Items and related notes are accounted for on the same basis and using the same policies as for Agency items, except where otherwise stated at Note 1.20.

1.3 Application of Accounting Standards

In the process of applying the accounting policies listed in this note, the Commission has made the following judgements that have the most significant impact on the amounts recorded in the financial statements:

- The fair value of leasehold improvements has been taken to be the market value of similar properties as determined by an independent valuer.

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next accounting period.

1.4 Statement of Compliance

Australian Accounting Standards require a statement of compliance with International Financial Reporting Standards (IFRSs) to be made where the financial report complies with these standards. Some Australian equivalents to IFRSs and other Australian Accounting Standards contain requirements specific to not-for-profit entities that are inconsistent with IFRS requirements. The Commission is a not for profit entity and has applied these requirements, so while this financial report complies with Australian Accounting Standards including Australian Equivalents to International Financial Reporting Standards (AEIFRSs) it cannot make this statement.

Adoption of new Australian Accounting Standard requirements

No accounting standard has been adopted earlier than the effective date in the current period.

Other effective requirement changes

The following amendments, revised standards or interpretations have become effective but have had no financial impact or do not apply to the operations of the Commission.

Amendments:

- 2005-1 Amendments to Australian Accounting Standards [AASBs 1, 101, 124]
- 2005-4 Amendments to Australian Accounting Standards [AASBs 139, 132, 1, 1023 1038]
- 2005-5 Amendments to Australian Accounting Standards [AASB 1 & AASB 139]
- 2005-6 Amendments to Australian Accounting Standards [AASB 3]
- 2006-1 Amendments to Australian Accounting Standards [AASB 121]
- 2006-3 Amendments to Australian Accounting Standards [AASB 1045]

Interpretations:

- UIG 4 Determining whether an Arrangement contains a Lease
- UIG 5 Rights to Interests arising from Decommissioning, Restoration and Environmental Rehabilitation Funds
- UIG 7 Applying the Restatement Approach under AASB 129 Financial Reporting in Hyperinflationary Economies
- UIG 8 Scope of AASB 2
- UIG 9 Reassessment of Embedded Derivatives

UIG 4 and UIG 9 might have impacts in future periods, subject to existing contracts being renegotiated.

Future Australian Accounting Standard requirements

The following new standards, amendments to standards or interpretations have been issued by the Australian Accounting Standards Board but are effective for future reporting periods. It is estimated that the impact of adopting these pronouncements when effective will have no material financial impact on future reporting periods.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Financial instrument disclosure

AASB 7 Financial Instruments: Disclosures is effective for reporting periods beginning on or after 1 January 2007 (the 2007-08 financial year) and amends the disclosure requirements for financial instruments. In general AASB 7 requires greater disclosure than that presently. Associated with the introduction of AASB 7 a number of accounting standards were amended to reference the new standard or remove the present disclosure requirements through 2005-10 Amendments to Australian Accounting Standards [AASB 132, AASB 101, AASB 114, AASB 117, AASB 133, AASB 139, AASB 1, AASB 4, AASB 1023 & AASB 1038]. These changes have no financial impact but will affect the disclosure presented in future financial reports.

Other

The following standards and interpretations have been issued but are not applicable to the operations of The Commission.

- AASB 1049 Financial Reporting of General Government Sectors by Governments
- UIG 10 Interim Financial Reporting and Impairment

1.5 Revenue

Revenue from Government

Amounts appropriated for departmental output appropriations for the year (adjusted for any formal additions and reductions) are recognised as revenue, except for certain amounts which relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

Other types of Revenue

Revenue from the sale of goods is recognised when:

- The risks and rewards of ownership have been transferred to the buyer;
- The seller retains no managerial involvement nor effective control over the goods;
- The revenue and transaction costs incurred can be reliably measured; and
- It is probable that the economic benefits associated with the transaction will flow to the Commission.

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when:

- The amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- The probable economic benefits with the transaction will flow to the Entity.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any provision for bad or doubtful debts. Collectability of debts is reviewed at balance date. Provisions are made when collectability of the debt is no longer probable.

1.6 Gains

Resources Received Free of Charge

Resources received free of charge are recognised as gains when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government Agency or Authority as a consequence of a restructuring of administrative arrangements. (Refer to Note 1.7).

Resources received free of charge are recorded as either revenue or gains depending on their nature i.e. Whether they have been generated in the course of the ordinary activities of the Commission.

Sale of assets

Gains from disposal of non-current assets is recognised when control of the asset has passed to the buyer

1.7 Transactions with the Government as Owner

Equity injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) are recognised directly in Contributed Equity in that year.

Restructuring of Administrative Arrangements

Net assets received from or relinquished to another Australian Government Agency or Authority under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

1.8 Employee benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for 'short-term employee benefits' (as defined in AASB 119) and termination benefits due within twelve months of balance date are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

All other employee benefit liabilities are measured as the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Commission is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration, including the Commission's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The Liability for Long Service Leave has been calculated using the Australian Government short hand method. The estimate of present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Superannuation

Staff of the Commission are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS accumulation plan (PSSap).

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the Financial Statements of the Australian Government and is settled by the Australian Government in due course.

The Commission makes employer contributions to the Employee Superannuation Scheme at rates determined by an actuary to be sufficient to meet the cost to the Government of the superannuation entitlements of the Commission's employees.

The Commission accounts for the contributions as if they were contributions to defined contribution plans.

From 1 July 2005, new employees are eligible to join the PSSap Scheme.

The liability for superannuation recognised as at 30 June 2007 represents outstanding contributions for the final fortnight of the year.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

1.9 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of leased non-current assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability recognised at the same time and for the same amount. The discount rate used is the interest rate implicit in the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a basis which is representative of the pattern of benefits derived from the leased assets. There are currently no finance leases within the Commission.

1.10 Borrowing costs

All borrowing costs are expensed as incurred.

1.11 Cash

Cash means notes and coins held and any deposits held at call with a bank or financial institution. Cash is recognised at its nominal amount.

No interest is earned on the Commission's bank balances.

1.12 Financial Risk Management

The Commission's activities expose it to normal commercial financial risk. As a result of the nature of the Commission's business and internal and Australian Government policies, dealing with the management of financial risk, the Commission's exposure to market, credit, liquidity and cash flow and fair value interest rate risk is considered to be low.

1.13 Derecognition of Financial Assets and Liabilities

Financial assets are derecognised when the contractual rights to the cash flows from the financial assets expire or the asset is transferred to another Entity. In the case of a transfer to another Entity, it is necessary that the risks and rewards of ownership are also transferred.

Financial liabilities are derecognised when the obligation under the contract is discharged, cancelled or expires.

1.14 Impairment of Financial Assets

Financial assets are assessed for impairment at each balance date.

If there is objective evidence that an impairment loss has been incurred, the amount of the loss is assessed as the difference between the asset's carrying amount and the present value of estimated future cash flows of the asset discounted at the current market rate for similar assets.

1.15 Interest bearing loans and borrowings

Government loans are carried at the balance yet to be repaid. Interest is expensed as it accrues.

1.16 Supplier and other payables

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.17 Contingent Liabilities and Contingent Assets

Contingent Liabilities and Contingent Assets are not recognised in the Balance Sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset, or represent an existing liability or asset in respect of which settlement is not probable or the amount cannot be reliably measured. Contingent assets are reported when settlement is probable, and contingent liabilities are recognised when settlement is greater than remote. Refer Note 10 and 20.

1.18 Acquisition of Assets

Assets are recorded at cost of acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor Agency's accounts immediately prior to the restructuring.

1.19 Property, Plant and Equipment (PP&E)

Asset Recognition Threshold

Purchases of property, plant and equipment are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition.

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'makegood' provisions in property leases taken up by the Commission where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Commission's leasehold improvements with a corresponding provision for the 'makegood' taken up.

Revaluations

Fair value of each class of assets are determined as follows: leasehold improvements by depreciated replacement cost, and plant and equipment by market selling price.

Following initial recognition at cost, property plant and equipment are carried at fair value less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised through surplus and deficit. Revaluation decrements for a class of assets are recognised directly through the operating result except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Depreciation and Amortisation

Depreciable property plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Commission using, in all cases, the straight line method of depreciation. Leasehold improvements are amortised on a straight-line basis over the lesser of the estimated useful life of the improvements or the unexpired period of the lease.

Depreciation/amortisation rates (useful lives) and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation and amortisation rates applying to each class of depreciable asset are based on the useful lives in the table below.

Asset class	2007 Total useful life	2006 Total useful life
Leasehold Improvements	Lesser of the term of the lease or 15 years	Lesser of the term of the lease or 10 years
Furniture and fittings	10 years	10 years
Office Equipment	5 years	5 years
Computer hardware	3 years	3 years
Computer software	3 to 7 years	3 to 7 years

The aggregate amount of depreciation allocated for each class of asset during the reporting period is disclosed in Note 4C.

Impairment

All assets carried at up to date fair value at the reporting date and are reviewed for impairment. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the Commission were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

No indicators of impairment were found for assets at fair value.

1.20 Intangibles

Intangibles comprise software that has been externally acquired for internal use. These assets are carried at cost above the capitalisation threshold of \$10,000, below this amount they are expensed in the year of purchase.

Software is amortised on a straight-line basis over its anticipated useful life. The useful life of the Commission's software is 3 to 7 years (2005-06: 3 to 7 years).

All software assets were assessed for impairment as at 30 June 2007. There were no indicators of impairment.

1.21 Inventories

Inventories (publications) held for resale are valued at the lower of cost or net realisable value.

Inventories not held for resale are valued at cost, unless they are no longer required, in which case they are valued at net realisable value.

1.22 Taxation/ Competitive Neutrality

The Commission is exempt from all forms of taxation except fringe benefits tax (FBT) and the goods and services tax (GST).

Revenues, expenses and assets are recognised net of GST:

- except where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- except for receivables and payables.

Competitive Neutrality

The Commission provides services on a not-for-profit basis which are not subject to Competitive Neutrality arrangements.

1.23 Reporting of Administered Activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items and related Notes. There are no administered commitments in 2007, nor were there any in 2006.

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for Departmental items, including the application of Australian Accounting Standards.

Administered Cash Transfers to and from Official Public Account

Revenue collected by the Commission for use by the Government rather than the Commission is Administered Revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance and Administration. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by the Agency on behalf of the Government and reported as such in the Administered Cash Flows in the Schedule of Administered Items and in the Administered Reconciliation Table in Note 19. The Schedule of Administered Items largely reflects the Government's transactions, through the Commission, with parties outside the Government.

Revenue

All administered revenues are revenues relating to the core operating activities performed by the Commission on behalf of the Australian Government.

The fines and costs are applied by the courts or by agreement between the Commission and the Defendant, and are recognised when awarded by the courts, or when agreement has been executed.

The court costs awarded against the Commission are recorded as a departmental expense.

Authorisation and notification fees and other revenue are applied when required under the relevant legislation, and are recognised upon payment.

Administered fee revenue is recognised at its nominal amount due less any allowance for bad or doubtful debts. Collectability of debts is reviewed at balance date. Allowances are made when collection of the debt is judged to be less rather than more likely.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 2 Events after the balance sheet date

No events have occurred after the balance date that would have an impact the financial position of the Commission.

Note 3 Income

	2007 \$'000	2006 \$'000
Revenues		
3A Revenues from Government		
Appropriations for outputs	107 518	89 794
Total revenues from government	107 518	89 794
3B Sale of goods and rendering of services		
Goods	7	15
Services	492	1 381
Total sales of goods and services	499	1 396
Provision of goods to:		
Related entities	2	3
External entities	5	12
Total sales of goods	7	15
Rendering of services to:		
Related entities	180	163
External entities	312	1 218
Total rendering of services	492	1 381
Gains		
3C Net Gains from Sale of Assets		
Infrastructure, plant and equipment:		
Proceeds from disposal	13	68
Net book value of assets disposed	-	(46)
Net gain from sale of assets	13	22
3D Other Gains		
Resources received free of charge	75	72
	75	72

Note 4 Expenses

	2007	2006
	\$'000	\$'000
4A Employee Benefits		
Wages and Salary	40 827	34 523
Superannuation	7 469	6 579
Leave and other entitlements	4 759	4 600
Separation and redundancies	-	143
Other employee expenses	281	256
Total employee expenses*	53 336	46 101

* The comparative for 2006 has been adjusted to reflect the change in the definition of 'employee benefits' as per AASB 119. This also impacts on supplier expenses below.

4B Suppliers

Provision of goods - related entities	24	14
Provision of Goods - external entities	2 204	1 591
Rendering of Services - related entities	9 431	8 717
Rendering of services - external entities	31 583	21 732
	43 242	32 054
Operating lease rentals - minimum lease payments	4 320	3 869
Workers' compensation premiums	399	418
Total supplier expenses	47 961	36 341

4C Depreciation and Amortisation

(i) Depreciation

Infrastructure, plant and equipment	919	873
Total Depreciation	919	873

(ii) Amortisation

Leasehold improvements	508	436
Intangibles – computer software	236	392
Total Amortisation	744	828

Total depreciation and amortisation **1 663** **1 701**

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

2007
\$'000

2006
\$'000

4D Write down and impairment of assets

Non-financial assets

Property, Plant & Equipment	10	6
Intangibles	–	19
Inventory	14	–
Total write-down and impairment of assets	24	25

4E Losses from asset sales

Infrastructure, plant and equipment:		
Proceeds from disposal	25	–
Net book value of assets disposed	111	–
Net Loss on disposal of infrastructure, plant and equipment	86	–

4F Finance Costs

Unwinding of discount on makegood provision	–	21
Total finance costs expense	–	21

Note 5 Financial assets

	2007	2006
	\$'000	\$'000
5A Cash and cash equivalents		
Cash at bank and on hand	1 008	1 599
Total cash and cash equivalents	1 008	1 559

5B Trade and other receivables		
Appropriations receivables - undrawn for existing outputs	54,374	44,283
Goods and services	98	113
Less: Provision for doubtful debts	-	-
Total trade and other receivables (gross)	54,472	44,396
GST receivable from the Australian Taxation Office	1,154	665
Total trade and other receivables (gross)	55,626	45,061

All receivables are current assets.

All receivables are with entities external to the Commission. Credit terms are net 30 days (2006: 30 days)

Receivables (gross) are aged as follows:

Current	55,611	45,016
Overdue by:		
Less than 30 days	4	43
31 to 60 days	11	-
61 to 90 days	-	2
More than 90 days	-	-
Total receivables (gross)	55,626	45,061

Receivables are represented by:

Current	55,626	45,061
Non-current	-	-
Total trade and other receivables (gross)	55,626	45,061

Note 6 Non-financial assets

	2007	2006
	\$'000	\$'000
6A Buildings		
<i>Leasehold improvements</i>		
Fair Value	2 513	2 247
Work in progress	3 582	–
Less: Accumulated amortisation	(1 469)	(961)
Total Leasehold Improvements (non-current)	4 626	1 286
6B Infrastructure, Plant and Equipment		
<i>Infrastructure, plant and equipment</i>		
Fair Value	5 525	3 607
Less: Accumulated depreciation	(1 966)	(1 423)
Total infrastructure, plant and equipment (non-current)	3 559	2 184

All revaluations are independent and in accordance with the revaluation policy stated at Note 1.20.

In 2004-05, the revaluations were completed by independent valuers Benjamin Player and Gregory Rowe (PrestonRowePatterson).

6C Analysis of property, plant, and equipment

Table A – Reconciliation of the opening and closing balances of property, plant and equipment (2006-07)

Item	Buildings -Leasehold improvements \$'000	Infrastructure plant and equipment \$'000	Total \$'000
As at 1 July 2006			
Gross book value	2 247	3 607	5 854
Accumulated depreciation/amortisation	(961)	(1 423)	(2 384)
Net book value 1 July 2006	1 286	2 184	3 470
Additions			
by purchase	3 848	2 414	6 262
Depreciation/amortisation expense	(508)	(919)	(1 427)
Disposals:			
Other disposals (gross book value)	–	(497)	(497)
Other disposals (accumulated depreciation)	–	377	377
Net book value 30 June 2007	4 626	3 559	8 185
Net book value as of 30 June 2007 represented by:			
Gross book value	6 095	5 525	11 620
Accumulated depreciation/amortisation	(1 469)	(1 966)	(3 435)
Net book value	4 626	3 559	8 185

Table A – Reconciliation of the opening and closing balances of property, plant and equipment (2005-06)

Item	Buildings -Leasehold improvements \$'000	Infrastructure plant and equipment \$'000	Total \$'000
As at 1 July 2005			
Gross book value	1 923	2 842	4 765
Accumulated depreciation/amortisation	(555)	(771)	(1 326)
Opening net book value	1 368	2 071	3 439
Additions			
by purchase	355	1,038	1,393
Depreciation/amortisation expense	(436)	(873)	(1 309)
Disposals:			
Other disposals (net book value)	–	(52)	(52)
Net book value 30 June 2006	1 286	2 184	3 471
Net book value as of 30 June 2006 represented by:			
Gross book value	2 247	3 607	5 854
Accumulated depreciation/amortisation	(961)	(1 423)	(2 384)
Net book value	1 286	2 184	3 470

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2007	2006
	\$'000	\$'000
6D Intangibles		
Purchased software at cost	2 058	1 496
Less: Accumulated amortisation	(1 524)	(1 288)
Total intangibles (non-current)	534	208

Table A – Reconciliation of the opening and closing balances of intangibles (2006-07)

Item	Computer Software \$'000
As at 1 July 2006	
Gross book value	1 496
Accumulated amortisation	(1 288)
Net book value 1 July 2006	208
Additions by purchase	562
Adjustments	–
Amortisation expense	(236)
Disposals	–
Net book value 30 June 2007	534
Net book value as of 30 June 2007 represented by:	
Gross book value	2 058
Accumulated amortisation	(1 524)
Net book value	534

Table A – Reconciliation of the opening and closing balances of intangibles (2005-06)

Item	Computer Software \$'000
As at 1 July 2005	
Gross book value	2,101
Accumulated amortisation	(1 445)
Net book value 1 July 2005	656
Additions by purchase	84
Adjustments	(121)
Amortisation expense	(392)
Disposals	(19)
Net book value 30 June 2006	208
Net book value as of 30 June 2006 represented by:	
Gross book value	1 496
Accumulated amortisation	(1 288)
Net book value	208

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

	2007	2006
	\$'000	\$'000
6E Inventories		
Publications held for sale	75	118
Total inventories	75	118

All inventories are current assets.

6F Other Non-Financial

Leasehold rights	83	129
Prepayments	666	534
Total other non-financial assets	749	663

Other non-financial assets are represented by:

Current	712	580
Non-current	37	83
Total other non-financial assets	749	663

Note 7 Payables

	2007	2006
	\$'000	\$'000
7A Supplier Payables		
Trade creditors and accruals	4 883	2 516
Total supplier payables	4 883	2 516

Supplier payables are represented by:

Current	4 883	2 516
Non-current	-	-
Total supplier payables	4 883	2 516

7B Other Payables

Lease incentives	1 274	257
Unearned revenue	323	267
Other	-	-
Total other payables	1 597	524

Other debt is represented by:

Current	460	340
Non-current	1 137	184
Total other payables	1 597	524

Note 8 Provisions

	2007	2006
	\$'000	\$'000
8A Employee Provisions		
Salaries and wages	352	302
Leave	13 365	12 058
Superannuation	61	54
Separation and redundancies	-	-
Other	-	-
Total employee provisions	13 778	12 414

Employee benefit liability and related on-costs are represented by:

Current	11 481	10 522
Non-current	2 297	1 892
Total employee provisions	13 778	12 414

The classification of current includes amounts for which there is an unconditional right to defer settlement by one year, hence in the case of employee provisions the above classification does not represent the amount expected to be settled within one year of reporting date. Employee provisions expected to be settled in twelve months from the reporting date \$4,372,000 (2006: \$3,864,000), in excess of one year \$9,406,000 (2006: \$8,550,000).

	2007	2006
	\$'000	\$'000
8B Other Provisions		
Provision for 'Makegood' on leasehold improvements	1 857	596
	1 857	596

Employee benefit liability and related on-costs are represented by:

Current	900	-
Non-current	957	596
Total Other Provisions	1 857	596

	Provision for restoration \$'000
Carrying amount 1 July 2006	596
Additional provisions made	1261
Amounts used	-
Amounts reversed	-
Unwinding of discount or change in discount rate	-
Closing balance 30 June 2007	1 857

The Commission has 11 agreements for the leasing of premises which have provisions requiring it to reinstate the premises to their original condition at the conclusion of the lease. The Commission has made a provision to reflect the present value of this obligation.

Note 9 Cash flow reconciliation

	2007	2006
	\$'000	\$'000
Reconciliation of net surplus (deficit) to net cash from operating activities:		
Net surplus (deficit)	5 035	7 116
Depreciation / amortisation	1 663	1 701
Net write down of non-financial assets	10	25
Loss on disposal of assets	86	(22)
Gain on disposal of assets	(13)	-
(Increase) / decrease in appropriation receivable	(7 174)	(11 269)
(Increase) / decrease in GST receivable	(488)	11
(Increase) / decrease in other receivables	14	8 030
(Increase) / decrease in inventories	42	(13)
(Increase) / decrease in prepayments	(132)	195
(Increase) / decrease in other assets	46	62
Increase / (decrease) in employee provisions	1 364	2 014
Increase / (decrease) in supplier payables	1 111	(653)
Increase / (decrease) in prepayments received	57	144
Increase / (decrease) in other provisions	510	-
Increase / (decrease) in other liabilities	(73)	(8 070)
Net cash from / (used by) operating activities	2 058	(729)

Note 10 Contingent liabilities and assets

Quantifiable Contingencies

The Schedule of Contingencies reports contingent liabilities in respect of claims for damages/costs of \$966,000 (2006: \$5,882,000). The Commission is expecting to be unsuccessful in 6 matters (2006: 14 matters) before the Courts alleging breaches of the Trade Practices Act, although the cases are continuing. The amount represents an estimate of the Commission's liability based on legal advice and the precedents in such cases. The Commission is defending the claims.

Unquantifiable Contingencies

As at 30 June 2006, the Commission has 2 matters (2006: 2 matters) before the Courts alleging breaches of the Trade Practices Act. In one case the Court has awarded costs against the Commission; however the amount is unquantifiable as at 30 June 2007. In the event of an unfavourable judgment by the court in the other matter, the Commission stands to lose by way of penalties or costs awarded. It is not possible to determine the amount in relation to these matters.

Remote Contingencies

As at 30 June 2006, the Commission has no matters (2006: 0 matters) before the Courts alleging breaches of the Trade Practices Act in respect of which it has received legal advice that there is a remote chance of unfavourable judgments by the court. The Commission stands to lose by way of costs awarded. It is not possible to determine the amounts in relation to these matters. The Commission is defending the claims.

Note 11 Executive remuneration

The number of executives who received or were due to receive total remuneration¹ of \$130 000 or more:

2006 - 2007 Band	2007	2006
	Number	Number
\$130,000 to \$144,999	1	–
\$145,000 to \$159,999	2	3
\$160,000 to \$174,999	2	7
\$175,000 to \$189,999	6	3
\$190,000 to \$204,999	7	2
\$205,000 to \$219,999	1	4
\$220,000 to \$234,999	1	2
\$235,000 to \$249,999	6	2
\$250,000 to \$264,999	1	2
\$265,000 to \$279,999	–	2
\$295,000 to \$309,999	3	2
\$310,000 to \$324,999	1	2
\$325,000 to \$339,999	1	1
\$340,000 to \$354,999	1	–
\$355,000 to \$369,999	1	–
\$370,000 to \$384,999	1	–
\$415,000 to \$429,999	–	1
\$535,000 to \$549,999	1	–
	36	33
The aggregate amount of total remuneration of executives shown above.	\$8 544 154	\$7 395 963
The aggregate amount of separation and redundancy/termination benefit payments during the year to executives shown above.	–	\$218 726

¹ Total remuneration includes salary and wages, accrued leave, performance pay, superannuation entitlements, motor vehicles and other fringe benefits and fringe benefits tax.

Note 12 Remuneration of auditors

	2007	2006
	\$	\$
Financial statement audit services are provided free of charge to the Commission by the Australian National Audit Office (ANAO)		
The fair value of the services provided was:	75 200	72 000

No other services were provided by the Auditor-General.

Note 13 Average staffing levels

	2007	2006
	Number	Number
The average staffing levels for the Commission during the year were:	576	507

Note 14A Interest rate risk (departmental)

Financial Instrument	Notes	Non-Interest Bearing		Total		Weighted Average Effective Interest Rate	
		2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000	2007 %	2006 %
Financial Assets							
Cash and cash equivalents	5A	1 008	1 599	1 008	1 599	n/a	n/a
Receivables for goods and services	5B	98	113	98	113	n/a	n/a
Total		1 106	1 712	1 106	1 712		
Total Assets				66 177	51 119		
Financial Liabilities							
Trade creditors	7A	4 883	2 516	4 883	2 516	n/a	n/a
Total		4 883	2 516	4 883	2 516	n/a	n/a
Total Liabilities				22 115	16 050		

Note 14B Fair values of financial assets and liabilities

Notes	2007		2006		
	Total Carrying amount \$'000	Aggregate Fair Value \$'000	Total Carrying amount \$'000	Aggregate Fair Value \$'000	
Departmental					
Financial Assets					
Cash and cash equivalents	5A	1 008	1 008	1 599	1 599
Receivables	5B	98	98	113	113
Total Financial Assets		1 106	1 106	1 712	1 712
Financial Liabilities (Recognised)					
Suppliers	7A	4 883	4 883	2 516	2 516
Total Financial Liabilities (Recognised)		4 883	4 883	2 516	2 516

14C Credit risk exposures

The Commission's maximum exposure to credit risk at reporting date in relation to each class of recognised financial assets is the carrying amount of those assets as indicated in the Balance Sheet.

The Commission has no significant exposures to any concentrations of credit risk.

All figures for credit risk referred to do not take into account the value of any collateral or other security.

Note 15 Income administered on behalf of government

	2007 \$'000	2006 \$'000
Non-taxation revenue		
Other taxes, fees and fines		
Fines and costs	22 939	20 628
Authorisation fees	157	410
Other	337	15
Total Revenues Administered on Behalf of Government	23 433	21 053

Note 16 Expenses administered on behalf of government

	2007 \$'000	2006 \$'000
Write-down of assets		
Financial assets - Receivables	5 141	4 121
Total Expenses Administered on Behalf of Government	5 414	4 121

Note 17 Assets administered on behalf of government

	2007 \$'000	2006 \$'000
Financial Assets		
17A Cash		
Cash at bank	5	1
Total Cash	5	1
17B Receivables		
Fines and costs	8 687	8 387
Less: Provision for doubtful debts	(6 190)	(4 053)
Total receivables (net)	2 497	4 334
Receivables (net) are represented by:		
Current	2 497	4 334
Non-current	-	-
Total receivables (net)	2 497	4 334
Receivables (gross) are aged as follows:		
Current	186	4 190
Overdue by:		
Less than 30 days	3 301	59
31 to 60 days	-	7
61 to 90 days	-	8
More than 90 days	5 200	4 123
	8 501	4 197
Total receivables (gross)	8 687	8 387
The provision for doubtful debts is aged as follows:		
Current	-	-
Overdue by:		
Less than 30 days	(3 281)	-
31 to 60 days	-	-
61 to 90 days	-	-
More than 90 days	(2 909)	(4 053)
Total provision for doubtful debts	(6 190)	(4 053)
Total Assets Administered on Behalf of Government	2 502	4 335

Note 18 Liabilities administered on behalf of government

	2007 \$'000	2006 \$'000
Payables		
Suppliers		
Trade creditors and accruals	-	-
Total Liabilities Administered on Behalf of Government	-	-
All liabilities are expected to be settled within 12 months of balance date.		

Note 19 Administered reconciliation table

	2007 \$'000	2006 \$'000
Administered assets less administered liabilities as at 1 July	4 335	8 028
<i>Add:</i> Administered revenues	23 433	21 053
<i>Less:</i> Administered expenses	(5 414)	(4 121)
Administered transfers to Australian Government		
Transfers to OPA	(19 852)	(20 625)
Administered assets less administered liabilities as at 30 June	2 502	4 335

Note 20 Administered contingent liabilities and assets

Quantifiable Administered Contingencies

The Schedule of Administered Items reports contingent assets in respect of claims for damages/costs of \$3,672,000 (2005: \$5,078,000). The Commission is expecting to succeed in 15 alleged breaches (2006: 19 alleged breaches) of the Trade Practices Act, although the cases are continuing. The estimate is based on legal advice and the precedents in such cases.

Unquantifiable Administered Contingencies

As at 30 June 2007, the Commission has 43 matters (2006: 18 matters) before the Courts alleging breaches of the Trade Practices Act. In the event of favourable judgment by the court, the Commission stands to gain by way of penalties or costs awarded. It is not possible to determine the amounts in relation to these matters.

Remote Administered Contingencies

As at 30 June 2007, the Commission has no matters (2006: 1 matter) before the Courts alleging breaches of the Trade Practices Act for which it has received legal advice that there is a remote chance of favourable judgment by the court. The Commission stands to gain by way of penalties or costs awarded. It is not possible to determine the amounts in relation to these matters.

Note 21 Administered financial Instruments

Note 21A		Interest Rate risk					
Financial Instrument	Notes	Non-Interest Bearing		Total		Weighted Average Effective Interest Rate	
		2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000	2007 %	2006 %
Financial Assets							
Cash and cash equivalents	17A	5	1	5	1	n/a	n/a
Receivables for goods and services	17B	2 497	4 334	2 497	4 334	n/a	n/a
Total		2 502	4 335	2 502	4 335		
Total Assets				2 502	4 335		
Financial Liabilities							
Trade creditors	18	-	-	-	-	n/a	n/a
Total		-	-	-	-	n/a	n/a
Total Liabilities				-	-		

Note 21B		Fair values of financial assets and liabilities			
	Notes	2007		2006	
		Total Carrying amount \$'000	Aggregate Fair Value \$'000	Total Carrying amount \$'000	Aggregate Fair Value \$'000
Administered					
Financial Assets					
Cash and cash equivalents	17A	5	5	1	1
Receivables	17B	2 497	2 497	4 334	4 334
Total Financial Assets	17	2 502	2 502	4 335	4 335
Financial Liabilities (Recognised)					
Suppliers		-	-	-	-
Total Financial Liabilities (Recognised)	18	-	-	-	-

Note 21C Credit Risk Exposures

The Government's maximum exposure to credit risk at reporting date in relation to each class of recognised administered financial assets is the carrying amount of those assets as indicated in the Schedule of Administered Items.

The Government has no significant exposures to any concentrations of credit risk.

All figures for credit risk referred to do not take into account the value of any collateral or other security.

Note 22 Appropriations

Table A: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations and borrowings

	2007 Departmental Outputs \$	2006 Departmental Outputs \$
Balance carried from previous year	21 308 258	20 066 672
Adjustment to opening balance*	93 618	–
Adjusted balance carried from previous period	21 401 876	20 066 672
Appropriation Act		
Appropriation Act (No.1)	104 984 000	85 481 000
Appropriation Act (No.3)	2 534 000	4 130 000
Departmental adjustments by the Finance Minister (Appropriation Acts)	–	–
Comcover Receipts (Appropriation Act s13)	–	–
Advance to the Finance Minister	–	–
Reductions	–	–
prior years	–	(40 000)
current year	–	–
FMA Act:		
Refunds credited (FMA s30)	1 026 551	262 359
Appropriations to take account of recoverable GST (FMA s30A)	4 524 700	4 307 960
Annotations to 'net appropriations' (FMAA s31)	667 698	2 158 298
Adjustments of appropriations on change of entity function (FMA s32)	–	183 000
Total appropriations available for payments	135 138 825	116 549 289
Cash payments made during the year (GST inclusive)	(106 664 944)	(95 241 031)
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations	28 473 881	21 308 258
<i>Represented by:</i>		
Cash at bank and on hand	1 007 936	1 599 079
Departmental appropriations receivable	26 311 933	19 043 903
GST receivable from ATO	1 154 012	665 276
Total	28 473 881	21 308 258

*Opening balance adjustment to align balances with Department of Finance and Administration records.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Departmental and non-operating appropriations do not lapse at financial year end. However, the responsible Minister may decide that part or all of a departmental or non-operating appropriation is not required and request the Finance Minister to reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament.

Table B: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Other than Ordinary Annual Services Appropriations

	2007 Non-operating Equity	2006 Non-operating Equity
Balance carried from previous period	25 238 618	23 263 618
Balance carried from previous period	(93 618)	–
Adjusted balance carried from previous period	25 145 000	23 263 618
Appropriation Act (No. 2)	3 958 000	1 000 000
Appropriation Act (No. 4)	–	975 000
FMA Act:		
Appropriations to take account of recoverable GST (FMA s30A)	104 050	–
Total appropriations available for payments	29 207 050	25 238 618
Cash payments made during the year (GST inclusive)	(1 144 549)	–
Appropriations credited to Special Accounts (GST exclusive)	–	–
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for other than Ordinary Annual Services Appropriations	28 062 501	25 238 618
<i>Represented by:</i>		
Appropriations receivable	28 062 501	25 238 618
Total	28 062 501	25 238 618

Note 23 Special Accounts

Other Trust Monies Special Account

Legal authority: *Financial Management and Accountability Act, 1997, s. 20*

Purpose: for the receipt of monies temporarily held on trust or otherwise for the benefit of a person other than the Australian Government.

This account in non-interest bearing.

	2007	2006
	\$	\$
Balance carried forward from previous year	55 775	52 004
Other receipts	123 124	3 971
Available for payments	178 899	55 975
Payments made	(126 356)	(200)
Balance carried to the next period	52 543	55 775
<i>Represented by:</i>		
Cash - held at bank	52 543	55 775
Total balance carried to the next period	52 543	55 775

Services for other Governments & Non-Agency Bodies Account

Legal authority: *Financial Management and Accountability Act, 1997, s. 20*

Purpose: for expenditure in connection with services performed on behalf of other Governments and bodies that are not agencies under the *Financial Management and Accountability Act 1997*.

This account in non-interest bearing.

	2007	2006
	\$	\$
Balance carried forward from previous year	-	8 662
Other receipts	-	181 708
Available for payments	-	190 370
Payments made	-	(190 370)
Balance carried to the next period	-	-
<i>Represented by:</i>		
Cash - held by the entity	-	-
Total balance carried to the next period	-	-

Note 24 Compensation and debt relief

Administered

No Acts of Grace payments were made during the reporting period (2006: No payments made).

No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the *Financial Management Accountability Act 1997* (2006: No waivers made).

No ex-gratia payments were made during the reporting period (2006: No payments made).

Departmental

No Acts of Grace payments were made during the reporting period (2006: No payments made).

No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the *Financial Management Accountability Act 1997* (2006: No waivers made).

No payments were made under the 'Compensation for Detriment caused by Defective Administration (CDDA) Scheme' during the reporting period (2006: No payments made).

No payments were made under s73 of the *Public Service Act 1999* during the reporting period (2006: No payments made).

Note 25 Reporting of outcomes

The Commission attributes its outcome between its two output groups on the basis of identifiable actual costs. Shared costs incurred with respect to these output groups are apportioned according to these resulting actual costs. This basis of attribution is consistent with that used for the 2006-07 budget.

25A Net Cost of Outcome Delivery

	Outcome 1		Total	
	2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000
Administered expenses	5 414	4 121	5 414	4 121
Departmental expenses	103 070	84 168	103 070	84 168
Total expenses	108 484	88 289	108 484	88 289
<i>Costs recovered from provision of goods and services to the non-government sector</i>				
Administered	–	–	–	–
Departmental	317	1 230	317	1 230
Total costs recovered	317	1 230	317	1 230
<i>Other external revenues</i>				
Administered	23 433	21 053	23 433	21 053
Total Administered	23 433	21 053	23 433	21 053
Departmental				
Gains from disposal of assets	13	22	13	22
Other	–	–	–	–
Goods and Services Revenue from Related Entities	180	166	180	166
Total Departmental	193	188	193	188
Total other external Income	23 626	21 241	23 626	21 241
Net cost/(contribution) of outcome	84 541	65 818	84 541	65 818

Outcome 1 is described in Note 1.1. Net costs shown include intra-government costs that are eliminated in calculating the actual Budget outcome.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

Note 25B - Major Classes of Departmental Income and Expenses by Output Groups and Outputs

Outcome 1	Output 1.1		Output 1.2		Total	
	2007	2006	2007	2006	2007	2006
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000

Departmental expenses

Employees	29 509	27 255	23 827	19 787	53 336	47 042
Suppliers	34 081	24 568	13 880	10 811	47 961	35 379
Depreciation & amortisation	1 085	1 107	578	594	1 663	1 701
Losses from asset sales	54	–	32	–	86	–
Write-down and impairment of assets	18	25	6	21	24	46
Total departmental expenses	64 747	52 955	38 323	31 213	103 070	84 168

Funded by:

Revenue from government	67 598	56 627	39 920	33 167	107 518	89 794
Sale of goods and services	224	760	275	636	499	1 396
Other non-taxation revenues	8	–	(8)	–	–	–
Gains	62	56	26	38	88	94
Total departmental income	67 892	57 443	40 213	33 841	108 105	91 284

Outcome 1 is described in Note 1.1. Net costs shown include intra-government costs that are eliminated in calculating the actual Budget outcome.

Note 25C - Major Classes of Administered Income and Expenses by Outcomes

	Outcome 1		Total	
	2007	2006	2007	2006
	\$'000	\$'000	\$'000	\$'000
Administered Income				
Fines and costs	22 939	20 628	22 939	20 628
Authorisation fees	157	410	157	410
Other	337	15	337	15
Total Administered Income	23 433	21 053	23 433	21 053
Administered Expenses				
Write-down of assets	5 414	4 121	5 414	4 121
Total Administered Expenses	5 414	4 121	5 414	4 121

Outcome 1 is described in Note 1.1. Net costs shown include intra-government costs that are eliminated in calculating the actual Budget outcome.

appendixes



appendix 1

the law

amendments to the Trade Practices Act

Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006; commenced 14 September 2006

Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Act 2006; commenced 27 September 2006

Trade Practices Amendment (National Access Regime) Act 2006; commenced 1 October 2006

Trade Practices Legislation Amendment Act (No. 1) 2006; 1 January 2007

Australian Energy Market Amendment (Gas Legislation) Act 2007; not yet commenced

Broadcasting Legislation Amendment (Digital Radio) Act 2007; Schedule 1 commenced 29 May 2007, Schedule 2 commenced 19 July 2007

Corporations (NZ Closer Economic Relations) and Other Legislation Amendment Act 2007; commenced 19 July 2007

amendments to the regulations introduced under the Act

Trade Practices Amendment Regulations 2006 (No. 2); commenced 1 January 2007

Trade Practices Amendment Regulations 2007 (No. 1); commenced 27 March 2007

Trade Practices Amendment Regulations 2007 (No. 2); commenced 7 April 2007

Trade Practices Amendment Regulations 2007 (No. 3); commenced 5 July 2007

Trade Practices Amendment Regulations 2007 (No. 4); commenced 25 July 2007

Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Amendment Regulations 2006 (No. 1); commenced 12 August 2006

Trade Practices (Consumer Product Information Standards) (Tobacco) Amendment Regulations 2007 (No. 1); commenced 17 February 2007

regulations introduced under the Act

Trade Practices (Consumer Product Safety Standard) (Children's Nightwear and Paper Patterns for Children's Nightwear) Regulations 2007; commenced 1 March 2007

Trade Practices (Industry Codes–Oilcode) Regulations 2006; commenced 1 March 2007

Trade Practices (Horticulture Code of Conduct) Regulations 2006; commenced 14 May 2007

other laws

Airports Act 1996; focusing on access, prices and the quality of service at Australia's privatised airports

Australian Postal Corporation Act 1989; defining access to the postal network

Broadcasting Services Act 1992; covering the payment of TV licences

Gas Pipeline Access Law

National Electricity Law

Telecommunications Act 1997; implements a regulatory framework for the telecommunications industry

Telecommunications (Consumer Protection and Service Standards) Act 1999; provides a range of safeguards to consumers of telecommunication services

Trade Marks Act 1995; governing the approval of a trademark that certifies that goods or services are of a particular standard of quality, origin, material or mode of manufacture

Copyright Act 1968; Schedule 11 of the *Copyright Amendment Act 2006* commenced 11 December 2006 and enables the ACCC to be made party to certain copyright licensing proceedings before the Copyright Tribunal and requires the tribunal to consider any relevant ACCC guidelines.

exceptions under federal, state and territory legislation

Some federal, state and territory acts permit conduct that would normally contravene the Trade Practices Act. Section 51(1) of the Trade Practices Act provides that such conduct may be permitted if it is specifically authorised under those other acts.

Below is a list of the legislation that allows such conduct or provides for regulations to be made authorising particular conduct. The list includes legislation that the ACCC has been notified of or has otherwise become aware of.

Federal

Trade Practices Act 1974; s. 173

Wheat Marketing Act 1989

Australian Postal Corporation Act 1989

Payment Systems (Regulation) Act 1998

Payment Systems (Regulation) Regulations 2006

New South Wales

Registered Clubs Act 1976

Liquor Act 1982

Rice Marketing Act 1983

Poultry Meat Industry Act 1986

Grain Marketing Act 1991

Hunter Water Act 1991

Competition Policy Reform (New South Wales) Act 1995
Competition Policy Reform (New South Wales) Savings and Transitional Regulation 1996
Farm Produce (Repeal) Act 1996
Industrial Relations Act 1996
Health Services Act 1997
Protection of the Environment Operations Act 1997
Totalizer Act 1997
Casino Control Regulation 2001
Coal Industry Act 2001
Gaming Machines Act 2001
Industrial Relations (Ethical Clothing Trades) Act 2001
Wine Grapes Marketing Board (Reconstitution) Act 2003
James Hardie Former Subsidiaries (Winding up and Administration) Act 2005
Racing Legislation Amendment Act 2006
World Youth Day Act 2006

Queensland

Forestry Act 1959
Chicken Meat Industry Committee Act 1976
Gladstone Power Station Agreement Act 1993
Transport Operations (Passenger Transport) Act 1994
Competition Policy Reform (Queensland) Act 1996
Sugar Industry Act 1999

Victoria

State Owned Enterprises Act 1992
Electricity Industry (Residual Provisions) Act 1993
Gas Industry (Residual Provisions) Act 1994
Water Industry Act 1994
Competition Policy Reform (Victoria) Act 1995
Health Services Act 1998
Gas Industry Act 2001
Outworkers (Improved Protection) Act 2003
Legal Profession Act 2004
Owner Drivers and Forestry Contractors Act 2005

Tasmania

Electricity Supply Industry Act 1995

Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995

Competition Policy Reform (Tasmania) Act 1996

Western Australia

North West Gas Development (Woodside) Agreement Act 1979

Energy Coordination Act 1994

Competition Policy Reform (Western Australia) Act 1996

Grain Marketing Act 2002

Electricity Industry (Wholesale Electricity Market) Regulations 2004

Electricity Industry Act 2004

Electricity Corporations Act 2005

South Australia

Industries Development Act 1941

Cooper Basin (Ratification) Act 1975

Roxby Downs (Indenture Ratification) Act 1982

Competition Policy Reform (South Australia) Act 1996

Authorised Betting Operations Act 2000

Authorised Betting Operations Regulations 2001

Chicken Meat Industry Act 2003

Northern Territory

Consumer Affairs and Fair Trading Act 1990

Competition Policy Reform (Northern Territory) Act 1996

Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice) Regulations

Electricity Reform Act 2000

Water Supply and Sewerage Act 2000

Australian Capital Territory

Health Act 1993

Competition Policy Reform Act 1996

Financial Management Act 1996

Government Procurement Act 2001

Road Transport (Public Passenger Services) Act 2001

Territory Records Act 2002

Cemeteries and Crematoria Act 2003

Insurance Authority Act 2005

appendix 2

freedom of information

statistics 2006–07

The ACCC received 29 freedom of information requests during the 2006–07 financial year. The requests were for access to documents generally relating to investigations and complaints. Six requests were carried over from last year.

In four cases access was granted in full and in 12 cases access was granted in part. Access was refused in three cases and two were transferred to other government agencies. Eight cases were not proceeded with and six requests had not been finalised by the end of the year.

There were four requests for internal review. One matter carried over from the 2005–06 financial year is awaiting decision from the Administrative Appeals Tribunal, and two matters from the 2006–07 financial year remain before the Administrative Appeals Tribunal for review.

section 8 of the Freedom of Information Act 1982

This section requires the ACCC to report annually on:

- > the organisation and functions of the agency
- > the arrangements that exist for outside participation in agency decision making
- > the categories of documents held by the agency
- > how the public can access these documents.

The following information addresses these requirements.

organisation, functions and decision making

The structure, functions, legal basis, organisation and detailed descriptions of the exercise of powers of the ACCC are set out in detail earlier in this report.

arrangements for outside participation

The ACCC's functions bring it into frequent contact with private individuals, companies, industry and consumer groups and other state, territory and Australian Government agencies. This contact allows interested bodies outside the ACCC to express their opinions and have it taken into account by the ACCC when it establishes its policies and priorities. These activities are detailed in full in appendix 6.

public registers

The ACCC maintains 27 public registers, both statutory and voluntary. The majority of documents placed on the registers in recent years can be downloaded from the ACCC website (www.accc.gov.au). Copies of documents that are not on the website are available from the Public Register Officer by calling (02) 6243 1330 or emailing public.registers@accc.gov.au.

statutory registers

The Trade Practices Act requires the ACCC to maintain certain public registers.

the notifications and authorisations registers (ss. 95 and 89)

These registers contain details of applications for notifications and authorisation, related submissions and the ACCC's decisions and reasons for its decisions.

consumer protection/product safety register (s. 65)

This is a register on conferences held on bans or mandatory recalls of defective goods.

access to services register (ss. 44Q, 44ZW, 44ZZC and 44ZZL)

This is a register of decisions and declarations under Part IIIA. They may include decisions made by the federal minister that a regime established by a state or territory for access to a service is an effective access regime for the service, or proposed service declarations that a service is an essential one of national significance.

register of price notifications (s. 95ZC)

This register contains copies of all locality notices given to the ACCC under s. 95Z of the Trade Practices Act and copies of any notices given under Part VIIA of the Act to, or by, the ACCC relating to the locality notice. The register in place under s. 23(1) of the Prices Surveillance Act effectively became the register under s. 95ZC, when that section came into operation.

part X investigations register (international liner shipping)

This register contains references given to the ACCC by the minister under ss. 10.47(1) and 10.57(1) of the Trade Practices Act; particulars of decisions made by the ACCC to hold investigations under ss. 10.48(2) and 10.58(2); requests to the ACCC by the minister under ss. 10.48(3) and 10.58(3); relevant documents given to the ACCC; particulars of oral submissions; and reports given to the minister by the ACCC relating to such investigations.

telecommunications registers (ss. 151AR–152EA)

The telecommunications registers include declared services, determinations, competition notices, ministerial pricing determinations, access codes and undertakings.

merger clearances register

On 1 January 2007 the ACCC created a new public register for merger clearances. This register contains information relating to merger clearances as required by s. 95AH of the Trade Practices Act.

voluntary registers

Although it is not obliged by statute, the ACCC also maintains public registers on mergers and acquisitions and undertakings under s. 87B of the Trade Practices Act.

The mergers and acquisitions register makes brief details of mergers and acquisitions considered by the ACCC publicly available. The details include the names of the target, acquirer and possible acquirer; product description; an outline of the matter and the ACCC's decision, including an outline of the reasons for that decision.

The undertakings register relates to s. 87B of the Trade Practices Act, under which enforceable undertakings may be given to the ACCC about a matter in which the ACCC has a power or function other than under Part X. Such undertakings provide for the ACCC to negotiate administrative settlements. The register contains copies of those undertakings.

categories of documents

The ACCC maintains the following categories of documents:

- > particulars of agreements furnished to the Commissioner of Trade Practices under previous acts
- > court, adjudication and legal material
- > library material, organisation matters
- > publications, speeches and media releases
- > personnel records
- > working documents, including staff investigations, reports, analyses, recommendations, correspondence and complaints, public registers and confidential material excluded from public registers
- > ACCC papers relating to parliamentary committees and questions about ACCC meetings with government and non-government bodies in relation to the introduction of new legislation or the amendment of existing legislation
- > general correspondence with members of the public.

facilities for access

ACCC publications may be inspected at, and are available from, any ACCC office (please refer to appendix 7 for address and contact details). Many ACCC publications can be downloaded from the ACCC website (www.accc.gov.au). Public register documents may be examined and photocopies bought at the ACCC's national office by calling the Public Register Officer during business hours on (02) 6243 1330, or by emailing public.registers@accc.gov.au.

Information about facilities available to help people with a disability gain access to documents may be obtained from any ACCC office. Special arrangements can be made to overcome any difficulties with physical access.

procedures and contact officer

Inquiries about access to documents or other matters related to freedom of information should be directed to the Freedom of Information Officer on (02) 6243 1244 during business hours, or by emailing foi@accg.gov.au.

Applicants seeking access to documents under the *Freedom of Information Act 1982* should apply in writing to:

FOI Officer
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

The FOI application fee is \$30, which should accompany the request. The ACCC levies the applicable fees and charges imposed under the Freedom of Information Regulations (Fees and Charges). Such fees and charges may be remitted, reduced or not imposed for any reason, including if grounds of financial hardship or general public interest can be established.

Access may be refused to a document deemed to be exempt or to contain exempt material. Alternatively, access may be granted in part, if practicable. A refusal to grant access will be supported by a statement of reasons. An applicant may apply for internal review of the decision. The chairman of the ACCC is authorised to make these decisions, although that power has been delegated to certain specified officers.

appendix 3

publications

regular publications

ACCC briefing (electronic only) August 06, October 06, December 06, March 07, May 07
ACCC ejournal, nos 27–37
ACCC update magazine, issues 20–21
Network (Utility Regulators Forum), issues 22–24

fair trading and consumer protection

Broadband connection speeds, fact sheet
Consumer protection and the Trade Practices Act, fact sheet
The hazard of toddler bucket drowning, fact sheet
Australasian Consumer Fraud Taskforce: Scams target you—protect yourself (brochure)
Australasian Consumer Fraud Taskforce: Scams target you—protect yourself, protect your money (brochure)
Australasian Consumer Fraud Taskforce: Scams target you—protect yourself, protect your phone (brochure)
Australasian Consumer Fraud Taskforce: Scams target you—protect yourself, protect your computer (brochure)
Australasian Consumer Fraud Taskforce: Scams target you—protect yourself, protect your identity (brochure)
Babies dummies: keep baby safe, safety alert (brochure)
Baby walker safety, safety alert (brochure)
Bunk bed safety, safety alert (brochure)
Cot safety, safety alert (brochure)
FairStore: a best practice guide for stores serving remote and Indigenous communities (book)
FairStore—for consumers (brochure)
Keeping baby safe (Arabic) (booklet)
Hot water bottles, safety alert (brochure)
Household furniture hazards for kids, safety alert (brochure)
If it sounds too good to be true ... it probably is: spam and scams (brochure)
Know how to complain: stand up for your consumer rights (brochure)
Toy safety, safety alert (brochure)
Warranties and refunds (desk sign, window sign)
Your consumer rights: refunds (wallet card)
Your consumer rights: rent bidding (brochure)
Your consumer rights: warranties (brochure)
Your consumer rights: warranties for service (brochure)
Your online rights (brochure)

effective
competition
and informed
markets

Can growers collectively bargain? fact sheet

Cartel conduct: how it affects your business, fact sheet

Does the Horticulture Code apply to packing houses? fact sheet

Does the Horticulture Code apply to you? fact sheet

Fuel re-selling agreements, disclosure and the Oilcode, fact sheet

I have a dispute under the Oilcode—what do I do? fact sheet

Refusal to deal, fact sheet

The Trade Practices Act and the ACCC—an overview, fact sheet

Unconscionable conduct in consumer transactions, fact sheet

Unconscionable conduct in small business transactions, fact sheet

What are a merchant's rights and responsibilities under the Horticulture Code? fact sheet

What are an agent's rights and responsibilities under the Horticulture Code? fact sheet

What does the Oilcode say about fuel re-selling agreements? fact sheet

What does the Oilcode say about terminal gate pricing? fact sheet

What does the Oilcode say about the termination of a fuel re-selling agreement? fact sheet

What is unprocessed horticulture produce? fact sheet

What to do if you receive horticulture produce without a horticulture produce agreement, fact sheet

Why say NO to backdated horticulture produce agreements? fact sheet

Scams, frauds and your business, Competing Fairly Forum (DVD)

Collective bargaining, Competing Fairly Forum (DVD)

Advertising and selling (book)

An overview of the Horticulture Code (book)

An overview of the Horticulture Code (Arabic) (book)

An overview of the Horticulture Code (Khmer) (book)

An overview of the Horticulture Code (Punjabi) (book)

An overview of the Horticulture Code (Traditional Chinese) (book)

An overview of the Horticulture Code (Vietnamese) (book)

An overview of the Oilcode for fuel resellers (summary sheet)

Authorisation—new processes from 2007 (A4 brochure)

Authorisations and notifications—a summary (book)

Being smart about your franchise—checklist before signing a lease agreement (brochure)

Collective bargaining notifications—a summary (A4 brochure)

Food and beverage industry descriptors guideline to the TPA (book)

Being smart about your new franchise and your retail lease, franchise bulletin

Guide to authorisation (electronic only)

Guide to collective bargaining notifications (book)

Guide to exclusive dealing notifications (book)

effective
competition
and informed
markets cont.

Guidelines for excluding information from the public register for authorisation and notification processes (flyer, electronic only)
Horticulture Code compliance manual
Merger review process guidelines (book)
Price advertising and the Trade Practices Act, news for business
Resale price maintenance, news for business
Warranty and refund signs, news for business
Oilcode compliance manual
The guide to the Horticulture Code for growers and wholesale traders in the horticulture industry
The guide to the Horticulture Code for growers and wholesale traders in the horticulture industry (Arabic)
The guide to the Horticulture Code for growers and wholesale traders in the horticulture industry (Khmer)
The guide to the Horticulture Code for growers and wholesale traders in the horticulture industry (Punjabi)
The guide to the Horticulture Code for growers and wholesale traders in the horticulture industry (Traditional Chinese)
The guide to the Oilcode
The Horticulture Code of Conduct—how does it affect you? (DVD)
The Oilcode—how does it affect you? (DVD)
TPA matters for small business (CD)
Retail flash no. 9 (electronic only)

infrastructure
service
markets

ACCC Telecommunications reports 2005–06 (book)
Airports price monitoring and financial reporting 2005–06 (electronic only)
Assessing cross-subsidy in Australia Post 2005–06 (electronic only)
Container stevedoring monitoring report, no. 8 (electronic only)
Examination of the prices paid to farmers for livestock and the prices paid by Australian consumers for red meat (book)
Medical indemnity insurance, 4th monitoring report (electronic only)
Quality of service monitoring report for price-monitored airports 2005–06 (book)
Regulatory conference 2006 (CD)
Report to the Senate on anti-competitive private health insurance (book)
Senate economic legislation inquiry into the price of petrol in Australia (book)
Telstra's compliance with price control arrangements 2005–06 (book)

corporate

ACCC annual report 2005–06 (book)
ACCC corporate plan 2006–07 (book)
ACCC learning and development materials
ACCC library database training manual
ACCC who we are: what we do: how we work (DVD)
Summary of the Trade Practices Act (book)
Your relocation guide to 23 Marcus Clarke Street, Canberra (book)

appendix 4

commissioner profiles

Graeme Samuel AO



Graeme Samuel AO is chairman of the ACCC. He was appointed to this position in August 2003 for a five-year term. Until then Mr Samuel was president of the National Competition Council, chairman of the Melbourne and Olympic Parks Trust, a commissioner of the Australian Football League, a member of the Board of the Docklands Authority and a director of Thakral Holdings Limited. He relinquished all these offices to assume his position with the ACCC.

Mr Samuel is past president of the Australian Chamber of Commerce and Industry, a past chairman of Playbox Theatre Company and Opera Australia, a former trustee of the Melbourne Cricket Ground Trust and former chairman of the Inner and Eastern Health Care Network.

Until the early 1990s Mr Samuel pursued a professional career in law and investment banking. He retired from this to assume a number of roles in public service and company directorships. Mr Samuel was a partner of the law firm Phillips Fox and Masel from 1972 to 1980, executive director of Hill Samuel Australia Limited and subsequently Macquarie Bank Limited from 1981 to 1986 and co-founder of Grant Samuel and Associates in 1988.

Mr Samuel holds a Bachelor of Laws (Melbourne) and Master of Laws (Monash). In 1995 he was elected a life member of the Australian Football League. Mr Samuel was appointed an Officer in the general Division of the Order of Australia in 1998. In 2000 he was awarded the Australian Sports medal for services to sport. In the same year he was appointed an Honorary Fellow of the Australian Institute of Company Directors. In 2003 he was awarded the Centenary Medal in recognition of his service as president of the National Competition Council and was appointed an Honorary Life Trustee of the Committee for Economic Development of Australia.

Louise Sylvan



Louise Sylvan is deputy chair of the ACCC. She was formerly the chief executive of the Australian Consumers Association (ACA) and president of Consumers International.

An active member and worker in consumer protection nationally and internationally for over 15 years, Ms Sylvan is well known for her work in enhancing consumer rights in a range of areas such as health, food safety issues, financial services, as well as in competition and consumer policy.

Ms Sylvan's impact on the issues of the day was recognised in her selection as one of 'Australia's 20 True Leaders' published by the Australian Financial Review *BOSS* magazine in 2002.

Currently, Ms Sylvan serves internationally on the OECD Consumer Policy Committee and the International Consumer Protection and Enforcement Network, and nationally on the Australian Statistics Advisory Council to the ABS. Earlier memberships included six years on the Australian Prime Minister's Economic Planning Advisory Council and the Self-Regulation Task Force in 1999–2000.

Ms Sylvan has a BA and Masters of Public Administration from universities in her original homeland of Canada. She immigrated to Australia in 1983.

John Martin



John Martin was appointed as commissioner of the Australian Competition and Consumer Commission in June 1999 with special responsibilities for small business related matters. Commissioner Martin is Chairman of the ACCC Transport Committee, a member of the enforcement and adjudication committees and is responsible for health-related issues.

Mr Martin is also the chairman on the International Air Services Commission.

Mr Martin was executive director of the Australian Chamber of Commerce and Industry from 1989 until his appointment to the ACCC. In his position at ACCI he was responsible for representation of business interests and development of business policies and programs, particularly as they affect small and medium enterprises. Mr Martin was a member of the board of Standards Australia for over five years and represented Australia on the Business and Industry Advisory Committee to the OECD.

Earlier in his career Mr Martin was a policy adviser and program manager with the Australian Treasury and the Department of Industry and a regional industrial consultant with the United Nations in Bangkok.

Mr Martin holds an economic degree from the Australian National University.

He started his second five-year term on 7 June 2004.

Jennifer McNeill



Jennifer McNeill was appointed in July 2002 for a five-year term ending 21 July 2007.

Before joining the ACCC, she was a partner in a major national law firm practising in litigation and dispute management. While with that firm, Ms McNeill represented both public and private sector clients in contentious and non-contentious matters involving contractual, regulatory and liability issues. She was a LEADR accredited mediator and tutored in civil procedure at the Australian National University. She remains an NSW Law Society accredited specialist in commercial litigation.

Ms McNeill served on the ACCC's enforcement, merger review and adjudication committees and took a particular interest in its consumer protection work.

Edward Willett



Edward Willett was appointed in January 2003 for a five-year term. Mr Willett is currently both a member of the ACCC, specialising in communications matters, and an inaugural member of the AER.

Mr Willett chairs the Utility Regulators Forum and the ACCC's Communications Committee. Before being appointed to the ACCC, Mr Willett was the inaugural executive director of the National Competition Council for seven years. Previously, he worked as an assistant commissioner with the Industry Commission, helped develop the Commonwealth Department of Industry, Science and Technology's role in business law and regulation, spent three years as deputy head of the Commonwealth Office of Regulation Review, and was involved in other Industry Commission inquiry work. He spent three years with the New Zealand Ministry of External Relations and Trade as an adviser on international economics and trade, and eight years as an economist with the Department of Defence.

Mr Willett has degrees in law and economics and a post-graduate diploma in international law.

David Smith



David Smith was appointed in June 2004 for a five-year term. He is the ACCC commissioner specialising in enforcement.

Immediately before his appointment as commissioner, Mr Smith was manager of the Enforcement and Compliance Division responsible for enforcement and compliance functions nationally, and has been a staff member of the ACCC since its inception in 1995. Before the creation of the ACCC he worked for its predecessor the Trade Practices Commission and has over 30 years experience in all areas of regulatory activity.

During this time Mr Smith also managed a number of other branches within the TPC and ACCC, including Mergers and Asset Sales, Deregulating Industries and Enforcement Coordination. In 1995–96 he was on overseas exchange with the Canadian Competition Bureau where he worked on a range of competition issues.

Stephen King



Stephen King was appointed in June 2004 for a five-year term. He is the ACCC commissioner specialising in mergers.

Dr King is an accomplished academic and one of Australia's most respected expert witnesses and lecturers in the field of economics. Before joining the ACCC he was Professor of Economics at the University of Melbourne from 1998 and a Professor of Management (Economics) at the Melbourne Business School from 2002. Dr King was also a Research Fellow in the Economics Program at the ANU Research School of Social Sciences from July 1994 to December 1997, and lectured in Economics at Harvard College from 1988 to June 1991.

He has a PhD from Harvard University and was awarded the University Medal by the Australian National University. Dr King is also a Fellow of the Academy of Social Sciences in Australia.

Dr King has been published widely in leading economic journals, and from 1999–2001 edited the *Australian Economic Review*. His specialisation is applied micro-economic theory, industrial organisation and regulation.

appendix 5

AER member profiles

Steve Edwell



Steve Edwell has been appointed by the Ministerial Council on Energy as inaugural chair of the Australian Energy Regulator, a position he has held since 23 May 2005.

Mr Edwell has over 15 years experience in reform of utilities, in particular electricity and water, where he has driven a number of comprehensive reform projects, and has worked in both the public and private sectors.

From 1988 to 1998 Mr Edwell worked in Queensland Treasury, holding the position of Assistant Under-Treasurer Structural Reform. Subsequently he undertook various contracted positions in the utilities sector and has acted as a consultant on a range of electricity and water matters, specialising in large-scale reform implementation.

Immediately before this appointment, Mr Edwell worked for the Western Australian Government leading the implementation of comprehensive electricity reform in that state. He was also the CEO of the Queensland Electricity Reform Unit, which implemented a range of electricity reforms culminating in Queensland joining the National Electricity Market. His other assignments have included being commissioned by the Queensland Government to implement the COAG water reforms and as head of the Queensland Office of Energy.

Mr Edwell has a commerce/economics degree from the University of New South Wales and an MBA from University of Queensland.

Geoff Swier



Geoff Swier was selected by states and territories as a member of the AER.

Mr Swier holds a Masters of Commerce (Economics) from the University of Auckland and has 20 years experience in micro-economic reform in Australia and New Zealand, focusing on the establishment of competitive energy markets and privatisation.

Mr Swier played a leading role in the Victorian electricity industry reforms from late 1993, and led policy and planning work for the reform of the Victorian gas industry between 1996 and June 1999. Between 1999 and 2001 he was a director of VENCORP, the Victorian gas market system operator.

He began his career in the New Zealand Ministry of Energy in 1982 working in energy forecasting and energy policy. Between 1984 and 1987 he was an economic adviser to the New Zealand Minister of Finance, and in 1990 was an adviser to the New Zealand Minister for State Owned Enterprises. In the early 1990s he was involved in policy work that led to the development of the New Zealand wholesale electricity market.

Edward Willett



Edward Willett: Part IIIAA of the Trade Practices Act provides that one of the members of the AER must be a commissioner of the ACCC. (See commissioner profiles in appendix 4)

appendix 6

external committees

Small Business Advisory Group

This group provides the ACCC with the opportunity to liaise with small business stakeholders, discuss emerging issues and work towards a collaborative approach to addressing them. The Small Business Advisory Group meetings were held in November 2006 and May 2007.

The group membership includes:

- Motor Trades Association of Australia
- National Farmers Federation
- The Pharmacy Guild of Australia
- Australian Chamber of Commerce and Industry
- Australian Hotels Association
- Council of Small Business of Australia
- Master Builders Association
- Housing Industry Association
- Law Council of Australia
- Institute of Chartered Accountants in Australia
- Australian Industry Group
- Real Estate Institute of Australia
- Australian Federation of Business and Professional Women
- Australian Retailers Association
- Franchise Council of Australia

Issues discussed by the group this year included:

- > development of industry codes of conduct in the oil and horticulture sectors
- > continued liaison with small business organisations to assist those in the retail industry to take proactive steps towards more effective self-regulation in the future
- > the need for a better understanding of the commercial dynamics, both of the franchisor–franchisee relationship and the ACCC and the parties
- > collective bargaining
- > ACCC information and outreach initiatives
- > ACCC administration of s. 51AC, unconscionable conduct in business transactions
- > developments in proposed trade practices legislative amendments and other legislation affecting the work of the ACCC
- > enforcement and litigation, including the way cases are selected and the use of enforceable undertakings
- > initiatives to improve the accessibility of the ACCC and its processes to small business

Small Business Advisory Group meetings 2006–07 and member attendance

Members	November 06	May 07
Motor Trades Association of Australia	X	X
National Farmers Federation		X
The Pharmacy Guild of Australia	X	X
Australian Chamber of Commerce and Industry	X	X
Australian Hotels Association	X	X
Council of Small Business of Australia	X	X
Master Builders Association	X	X
Housing Industry Association		X
Law Council of Australia	X	
Institute of Chartered Accountants in Australia	X	
Australian Industry Group		
Real Estate Institute of Australia	X	X
Australian Federation of Business and Professional Women	X	
Australian Retailers Association		
Franchise Council of Australia	X	X

Franchising Consultative Panel

The panel gives the ACCC an opportunity to not only identify emerging issues in the industry, but to also develop specific compliance and educational initiatives to help franchisors and franchisees understand their rights and obligations under the Act. Its membership includes franchisors, consultants, lawyers, franchise associations and franchisees. The Franchising Consultative Panel meetings were held in October 2006 and April 2007. The panel membership includes:

Dibbs Abbott Stillman

The Federal Chamber of Automotive Industries

Franchise Council of Australia

Franchising Solutions

Home Wilkinson Lowry

Just Cuts/Wellbeing

Motor Trades Association of Australia

University of New South Wales

Griffith University

Law Council of Australia

WordWerx

Kwik Kopy

Issues discussed by the panel this year included:

- > due diligence by franchisees and franchisors as an ongoing issue in addition to succession planning
- > the need to match educational materials with potential franchisees to ensure they are aware of regulations and exercise due diligence
- > issues of franchisor insolvency
- > review of the Franchising Code of Conduct
- > franchising issues and ACCC litigation matters
- > ACCC information and outreach activities in the industry sector

Franchising Consultative Panel meetings 2006–07 and member attendance

Members	October 06	April 07
Dibbs Abbott Stillman	X	
The Federal Chamber of Automotive Industries	X	X
Franchise Council of Australia	X	X
Franchising Solutions	X	X
Home Wilkinson Lowry	X	
Just Cuts/Wellbeing		X
Motor Trades Association of Australia	X	X
University of New South Wales	X	X
Griffith University		
Law Council of Australia	X	
WordWerx	X	X
Kwik Kopy	X	

Consumer Consultative Committee

The Consumer Consultative Committee comprises consumer, community and welfare organisations from around Australia that meet to advise the ACCC on issues and trends affecting consumers that fall within the scope of the Trade Practices Act.

A review of membership was conducted in 2006–07 and a new committee will be convened in December 2007. Members are appointed for a term of approximately two years, with regular reviews to ensure a dynamic and representative membership.

Members assist the ACCC in its administration of the Act to enhance the delivery of consumer outcomes. Meetings are held three times a year. The Consumer Consultative Committee also:

- > facilitates comment to the ACCC on issues affecting consumers that fall within the scope of the ACCC's administration of the Trade Practices Act and allows group members to inform the ACCC about issues that affect the groups they represent
- > enables the ACCC to ensure its communication and compliance strategies meet the needs of consumers
- > provides tangible outcomes for consumers through work that members undertake in partnership with other members and the ACCC
- > improves consumer and community organisations' understanding of the Trade Practices Act and access to the administrative processes of the ACCC
- > develops and implements further strategies to ensure businesses comply with the Trade Practices Act and improve their processes to take account of, or rectify, consumer issues identified by the ACCC and the Consumer Consultative Committee
- > assists the ACCC in its dissemination strategies and appropriate external networks available to enhance communication with community and consumer groups and consumers, and issues as requested by the ACCC

Committee membership

The 2006–07 committee membership includes the Deputy Chair of the ACCC, Louise Sylvan, who chairs the CCC. Other ACCC staff attend as required. Membership also includes senior officers of each of the following consumer, community and welfare organisations:

Communications Law Centre
Consumers Federation of Australia
National Children's and Youth Law Centre
Tasmanian Council of Social Service
Australian Financial Counselling and Credit Reform Association
Country Women's Association of Australia
Federation of Ethnic Communities Council of Australia
Public Interest Advocacy Centre
Consumer Law Centre Victoria
National Council on Intellectual Disability
Tangentyere Council
Australian Consumers Association

Outcomes from the committee during the 2006–07 year include:

- > advice on emerging consumer issues including scams that assisted the ACCC's development of a revised SCAMwatch website
- > assisting in the development of consumer materials including *FairStore*—a publication for Indigenous consumers, and the translation of ACCC consumer materials including *Know how to complain*
- > assisting in development of strategies to help disadvantaged and vulnerable consumers
- > contributing as community partners in the annual national campaign conducted by the Australasian Consumer Fraud Taskforce that the ACCC chairs

Health Sector Consultative Committee

The Health Sector Consultative Committee (HSCC) was formed to continue the liaison process between the ACCC and the health sector that developed through the operation of the Health Services Advisory Committee. The HSCC will meet twice annually and its inaugural meeting took place on 29 May 2007.

The HSCC provides a forum for the ACCC to advise the health sector (through its representatives on the committee) on trade practices issues and for committee members, including consumer representatives, to raise trade practices queries or concerns relevant to their position within the sector.

The HSCC is chaired by ACCC commissioner Mr John Martin and membership comprises:

Australian Dental Association—Carmelo Bonanno
Australian Health Insurance Association—Michael Armitage
Australian Health Ministers Advisory Council—Tony Sherbon
Australian Medical Association—Zelle Hodge
Australian Physiotherapy Association—Damian Mitsch
Australian Private Hospitals Association—Michael Roff
Choice—Viola Korczak
Committee of Presidents of Medical Colleges—Russell Stitz
Department of Health and Ageing—Jamie Clout
Optometrists Association Australia—Joe Chakman
National Rural Health Alliance—Gordon Gregory
The Pharmacy Guild of Australia—Wendy Phillips

Issues discussed by the HSCC at its meeting this year included:

- > identification of trade practices issues relevant to the health sector
- > Dawson amendments to the Trade Practices Act, particularly the provision for collective bargaining notifications by small businesses
- > recent ACCC enforcement and compliance activity affecting the sector

Health Sector Consultative Committee meetings 2006–07 and member attendance

Members

May 07

Australian Dental Association	X
Australian Health Insurance Association	X
Australian Health Ministers Advisory Council	X
Australian Medical Association	X
Australian Physiotherapy Association	
Australian Private Hospitals Association	X
Choice (formerly Australian Consumers Association)	
Committee of Presidents of Medical Colleges	X
Department of Health and Ageing	X
Optometrists Association Australia	X
National Rural Health Alliance	X
The Pharmacy Guild of Australia	X

Energy Consultative Committee

Following the establishment of the Australian Energy Regulator in 2005, the Energy Consultative Committee of the ACCC agreed to continue with the committee in a consultative form to provide briefings on energy matters to members. It met once in 2006–07.

The committee is chaired by AER Chairman Steve Edwell, and membership comprises:

Australian Energy Regulator—Ed Willett, Joe Dimasi, Michelle Groves, Mike Buckley, Sebastian Roberts, Chris Pattas

Essential Services Commission—Greg Wilson, Paul Fearon

Essential Services Commission of South Australia—Pat Walsh

Economic Regulation Authority—Lyndon Rowe

Independent Competition and Regulatory Commission—Paul Baxter

Independent Pricing and Regulatory Tribunal—Jim Cox

Office of the Tasmanian Energy Regulator—Andrew Reeves, Jane Hyland

Queensland Competition Authority—John Hall, Gary Henry

Issues discussed by the committee at its meeting this year were retail pricing determinations in various jurisdictions, gas and electricity revenue determinations for distribution and transmission businesses, the wholesale national electricity market and gas and electricity legislative reform program.

Energy Consultative Committee meetings 2006–07 and member attendance

Members

May 07

Australian Energy Regulator AER/ACCC	X
Essential Services Commission (Vic.)	X
Essential Services Commission of South Australia (SA)	X
Economic Regulation Authority (WA)	X
Independent Competition and Regulatory Commission (ACT)	X
Independent Pricing and Regulatory Tribunal (NSW)	X
Office of the Tasmanian Energy Regulator (Tas.)	X
Queensland Competition Authority (Qld)	X

Infrastructure Consultative Committee

The Infrastructure Consultative Committee was set up in 2006 to facilitate discussions on the broad issues of infrastructure and infrastructure regulation. The committee was selected to be representative of the diversity of infrastructure interests, and includes representatives from energy, telecommunications, water, rail, port and airports. The committee is an important mechanism for the ACCC to gain feedback from stakeholders in the infrastructure sector. Operational issues and the specifics of decisions that are before the ACCC/AER are not the focus of this committee. Rather, the focus is on issues in the practice of regulation that cross the different infrastructure sectors. The committee commissions research work for discussion.

The committee is chaired by Graeme Samuel and external membership includes:

Australian Pipeline Industry Association
Association of Australian Ports and Marine Authorities Inc.
Australian Telecommunications Users Group
Australian Airports Association
Australasian Railway Association
Australian Water Association
Babcock and Brown Infrastructure
Board of Airlines Association of Australia
Competitive Carriers Coalition
Energy Networks Association
Energy Users Association
Energy Supply Association of Australia
Infrastructure Partnerships Australia
Macquarie Bank
Optus
Telstra
Standard and Poor's (Australia) Pty Ltd
Water Services Association of Australia

Issues discussed by the committee this year include:

- > regulation and incentives for investment with specific focus on the New Zealand experience
- > light-handed economic regulation—what does it mean and what is its role
- > overview of the change to Part IIIA of the Trade Practices Act
- > regulatory risk—what it means and how can it be taken into account
- > recent tribunal and Federal Court decisions and what they mean or future regulatory practices
- > issues regarding the facilitation of commercial resolution of access issues

Infrastructure Consultative Committee meetings 2006–07 and member attendance

Members	October 06	April 07
Australian Pipeline Industry Association		X
Association of Australian Ports and Marine Authorities Inc.	X	X
Australian Telecommunications Users Group	X	
Australian Airports Association		X
Australasian Railway Association	X	X
Australian Water Association		
Babcock and Brown Infrastructure	X	
Board of Airlines Association of Australia		
Competitive Carriers Coalition	X	
Energy Networks Association	X	X
Energy Users Association		
Energy Supply Association of Australia		
Infrastructure Partnerships Australia		
Macquarie Bank		
Optus		
Telstra	X	X
Standard & Poor's	X	X
Water Services Association of Australia		X

appendix 7

addresses and contacts

ACCC

National office

23 Marcus Clarke St Canberra ACT 2601

GPO Box 3131 Canberra ACT 2601

telephone: 02 6243 1111

facsimile: 02 6243 1199

ACCC Infocentre

business and consumer inquiries 1300 302 502

ACCC website

www.accc.gov.au

AER

Address

Level 42, The Tower, 360 Elizabeth Street
Melbourne Central, Melbourne VIC 3000

GPO Box 520 Melbourne VIC 3001

telephone: 03 9290 1444

facsimile: 03 9290 1457

AER email

AERInquiry@aer.gov.au

AER website

www.aer.gov.au

ACCC regional offices

	regional director	address	telephone facsimile
New South Wales	Geoff Williams	Level 7, Angel Place 123 Pitt Street Sydney NSW 2000 GPO Box 3648 Sydney NSW 2001	02 9230 9133 02 9223 1092
Victoria	Bob Weymouth	Level 35, The Tower 360 Elizabeth Street Melbourne Central Melbourne VIC 3000 GPO Box 520 Melbourne VIC 3001	03 9290 1800 03 9663 3699

ACCC regional offices

	regional director	address	telephone facsimile
South Australia	George Kamencak	Level 14, ANZ House 13 Grenfell Street Adelaide SA 5000 GPO Box 922 Adelaide SA 5001	08 8213 3444 08 8410 4155
Queensland	Alan Ducret	Level 3, AAMI Building 500 Queen Street Brisbane QLD 4000 PO Box 10048 Adelaide Street Post Office Brisbane QLD 4000	07 3835 4666 07 3832 0372
North Queensland	Kim McBey	Level 6, Central Plaza 370 Flinders Mall Townsville QLD 4810 PO Box 2016 Townsville QLD 4810	07 4729 2666 07 4721 1538
Western Australia	Sam Di Scerni	Level 3, East Point Plaza 233 Adelaide Terrace Perth WA 6000 PO Box 6381 East Perth WA 6892	08 9325 0600 08 9325 5976
Tasmania	Peter Clemes	Level 3, AMP Building 86 Collins Street Hobart TAS 7000 GPO Box 1210 Hobart TAS 7001	03 6215 9333 03 6234 7796
Northern Territory	Derek Farrell	Level 8 National Mutual Centre 9–11 Cavenagh Street Darwin NT 0800 GPO Box 3056 Darwin NT 0801	08 8946 9666 08 8946 9600

glossary and abbreviations

ACCC	Australian Competition and Consumer Commission
ACFT	Australian Consumer Fraud Taskforce
ACMA	Australian Communications and Media Authority
Act	the <i>Trade Practices Act 1974</i>
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
ANAO	Australian National Audit Office
APTPPL	APT Petroleum Pipelines Ltd
ASIC	Australian Securities and Investment Commission
AWA	Australian workplace agreement
CSP	carriage service provider
Dawson amendments	resulting from the review of the Trade Practices Act by Sir Daryl Dawson
ex-officio members	hold office on the commission because they head up other regulatory agencies
FTTN	fibre-to-the-node
gas code	National Third Party Access Code for Natural Gas Pipeline Systems
GSM	global system for mobile communications
ICN	International Competition Network
ICPEN	International Consumer Protection and Enforcement Network
LCS	local carriage service
LSS	line sharing service
MCE	Ministerial Council on Energy
MTAS	mobile terminating access service
NEL	National Electricity Law
NER	National Electricity Rules
NEM	National Electricity Market
NGL	National Gas Law
NGR	National Gas Rules

OECD	Organisation for Economic Cooperation and Development
pay-TV	subscription television services
PSTN OTA	public switched telephone network origination and termination service
RKR	record keeping rule
s. 87B undertakings	court enforceable undertaking made under s. 87B of the Act
SCOCA	Standing Committee of Officials on Consumer Affairs
TPA	Trade Practices Act
the tribunal	Australian Competition Tribunal
ULLS	unconditioned local loop service
WLR	wholesale line rental

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