

# Part 6

## Appendixes

# Appendix 1: Agency and outcome resource statements

Table A1.1: Agency resource statement, 2012-13

		Actual available appropriations for 2012-13 (a) \$'000	Payments made in 2012-13 (b) \$'000	Balance Remaining (a-b) \$'000
<b>Ordinary annual services</b>				
<b>Departmental</b>				
Prior year departmental carried forward		18 645	9 397	9 248
Departmental appropriation		152 949	152 949	0
Receipts from other sources		3 448	2 974	474
<b>Total ordinary annual services<sup>(1)</sup></b>	<b>A</b>	<b>175 042</b>	<b>165 320</b>	<b>9 722</b>
<b>Other services</b>				
<b>Departmental non-operating</b>				
Prior year non-operating carried forward		11 871	11 871	0
Equity injections		60	60	0
<b>Total other services</b>	<b>B</b>	<b>11 931</b>	<b>11 931</b>	<b>0</b>
<b>Special accounts</b>				
Opening balance		54	0	54
Non-appropriation receipts to special accounts		0	0	0
<b>Total special account</b>	<b>C</b>	<b>54</b>	<b>0</b>	<b>54</b>
<b>Total net resourcing for ACCC (A+B+C)</b>		<b>187 027</b>	<b>177 251</b>	<b>9 776</b>

Note 1 Departmental capital budget of \$2.018 million included in ordinary annual services

**Table A1.2: Budget expenses and resources for Outcome 1, 2012-13**

Outcome 1: Lawful competition, consumer protection, and regulated national infrastructure markets and services through regulation, including enforcement, education, price monitoring and determining the terms of access to infrastructure services	<b>Budget Expenses 2012-13 \$'000</b>	<b>Actual Expenses 2012-13 \$'000</b>	<b>Variation 2012-13 \$'000</b>
	(a)	(b)	(a-b)
Program 1.1: Other Departmental			
Departmental expenses			
Departmental appropriation	150 931	150 228	703
Revenues from independent sources (Section 31)	500	852	(352)
Expenses not requiring Appropriation in the Budget year	3 544	26 037	(22 493)
<b>Total Expenses for Outcome 1</b>	<b>154 975</b>	<b>177 117</b>	<b>(22 142)</b>

**Table A1.3: Average staffing level**

	<b>2012-13</b>	<b>2011-12</b>
Average staffing level (number)	798	807

# Appendix 2: Staffing

## Staffing

Table A2.1 and table A2.2 provide details of the ACCC/AER staffing complement in 2011–12.

**Table A2.1: APS staff employed by classification and location (at 30 June 2013)**

Actual Classification	Adelaide	Brisbane	Canberra	Darwin	Hobart	Melbourne	Perth	Sydney	Townsville	TOTAL
SES 3			3							3
SES 2			3			2		3		8
SES 1		3	13			13	1	3		33
EL2	7	6	46	1	1	69	2	21		153
EL1	11	10	61	1		91	5	23	1	203
APS6	11	11	58	2	1	72	9	14		178
APS5	6	10	56	2	2	61	3	21	2	163
APS4	3	2	24	3		28	2	14	1	77
APS3	1	3	16			4	5	2		31
APS2			2							2
APS1						2	1			3
GRAD	1	2	9	1		10	2	4	1	30
<b>TOTAL</b>	<b>40</b>	<b>47</b>	<b>291</b>	<b>10</b>	<b>4</b>	<b>352</b>	<b>30</b>	<b>105</b>	<b>5</b>	<b>884</b>

Table A2.2: APS staff employed by gender and location (at 30 June 2013)

	Adelaide	Brisbane	Canberra	Darwin	Hobart	Melbourne	Perth	Sydney	Townsville	TOTAL
<b>ONGOING</b>										
Female full-time	14	22	123	6		141	16	51	2	375
Male full-time	23	16	105	4	3	163	12	37	2	365
Female part-time	3	9	34		1	29	1	9	1	87
Male part-time			6			11		5		22
<b>NON-ONGOING</b>										
Female full-time			13			3	1	1		19
Male full-time			6			1		2		9
Female part-time			1			2				3
Male part-time			3			2				4
<b>TOTAL</b>	<b>40</b>	<b>47</b>	<b>291</b>	<b>10</b>	<b>4</b>	<b>352</b>	<b>30</b>	<b>105</b>	<b>5</b>	<b>884</b>

# Appendix 3: Work health and safety

## Work health and safety management

The ACCC has continued to enhance HR policies, guidelines and practices to meet the requirements of the *Work Health and Safety Act 2011* (Cth) and the *Work Health and Safety Regulations 2011* (Cth). In 2012–13, policies were finalised on consultation, risk management and procurement. Guidelines were developed and published on the management of the risks presented by customer aggression and remote and isolated work. An organisation wide risk register was also developed to list known hazards and to record the risk controls used to manage those hazards. Workplace inspections were conducted by health and safety representatives twice during the year. The findings of those inspections were used to identify areas to improve health and safety practice.

## Health and safety activities

The ACCC made further efforts continued to improve workplace health and wellbeing outcomes for its workers during 2012–13.

A Wellness Committee was established to provide a national approach to health and wellbeing events and formalised an ACCC Wellness and Diversity Program calendar of events for 2012–13. The calendar included a range of events which are recognised at either the international or national level:

- **Mental Health Week and R U OK Day:** a comprehensive program organised by the ACCC Wellness Committee to raise awareness around mental health issues.
- **Influenza Vaccination Program:** the 2012–13 program was highly successful with about 40 per cent of staff receiving vaccinations.
- **World Health Day:** a new initiative for the ACCC, where staff in most of its offices received the opportunity for a free five minute health check to test blood pressure, glucose and cholesterol levels. The initiative was well supported 29 per cent of staff in the offices where the checks were held attending.
- **World Blood Donor Day:** a new national initiative for 2012–13 where a number of ACCC offices arranged for staff to donate blood in recognition of the World Health Organisation event.
- **November:** ACCC staff participated in raising awareness and donations for this national event where guest speakers also spoke about the importance of having a prostate examination.

The Organisational Wellbeing Committee (OWC) continued to meet regularly in 2012–13. Its focus remains on advancing the ACCC's capability and performance including effective leadership, effective corporate governance processes and promoting an ethical and vibrant culture.

The OWC worked to ensure a strategic and comprehensive approach to people-related issues including work/life balance, ethics, bullying and harassment, communication and performance management. The following wellbeing initiatives were endorsed by the OWC:

- **Pulse Survey:** since 1995, the ACCC has undertaken staff and pulse surveys to examine and benchmark organisational health issues and identify areas for improvement. The 2012–13 pulse survey targeted five main areas of organisational health—working flexibly, red tape, hierarchy, the individual performance framework and our handling of grievances.

- **Respect Phase Two:** as part of the Respect Program to eliminate bullying and harassment in the workplace and raise awareness, Respect Phase Two was delivered in the first half of the 2012-13 financial year. The two hour mandatory workshop was delivered by senior human resource managers, provided staff with information on what was considered bullying and what wasn't, how to lodge a formal complaint and understand how the complaint investigation process works.
- **Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Employee Ally Network:** building on the ACCC's Respect Program, an ACCC LGBTI Ally Network was established to support the inclusion of lesbian, gay, bisexual and transgender (LGBTI) staff and champion a discrimination-free and diverse workplace. The Ally Network was launched on the International Day Against Homophobia (17 May 2013) and has received extremely positive feedback from employees and management.

Other major organisation wide initiatives which contribute to a safe and healthy workplace for ACCC staff include the:

- **Workplace Contact Officer Network:** as part of the ACCC's commitment to eradicating bullying and harassment within the workplace, Workplace Contact Officers continue to be represented in each of the ACCC's offices.
- **Employee Assistance Program:** the ACCC continued to provide a free counselling service for employees and their immediate families, through a renowned corporate counselling organisation.
- **Healthy Lifestyle Reimbursement:** the healthy lifestyle reimbursement scheme entered, its second year, promoting healthy lifestyle choices among staff. In 2012-13, 78 per cent of employees made a claim up to the limit of just under \$300.

## Health and safety outcomes

### Comcare premiums

The ACCC's Comcare premium for 2012-13 was set at 0.35per cent of total salaries, compared with the all-agencies combined rate of 1.81 per cent.

### Compensation claims

Three new compensation claims were made to Comcare from the ACCC during 2012-13. The ACCC has eight open compensation claims.

### Non-compensable cases

The ACCC provides ongoing support for employees suffering from physical and psychological injuries or illnesses, with assistance to 20 employees with non-compensable physical and psychological injuries or illnesses during 2012-13.

### Incident statistics

Thirty eight incidents were reported to the ACCC in 2012-13.

### Investigations, directions and notices

The ACCC received no notices under the Work Health and Safety Act, and did not conduct any investigations during 2012-13.

## Appendix 4: Freedom of information

Agencies subject to the *Freedom of Information Act 1982* (FOI Act) are required to publish information to the public as part of the Information Publication Scheme (IPS). This requirement is in Part II of the FOI Act and has replaced the former requirement by the Department of Prime Minister and Cabinet to publish a section 8 statement in annual reports. Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements.

Information previously required to be included in the annual report under section 8 and now required to be published as part of the Information Publications Scheme under Part II of the FOI Act is available on the ACCC's FOI website <http://foi.accc.gov.au>

## Appendix 5: Advertising and market research

Under section 311A of the *Commonwealth Electoral Act 1918*, the ACCC must report annually on its use of advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising agencies.

The reporting requirement seeks information on payments of more than \$12 198, GST inclusive, that the ACCC made to such agencies in 2012–13. Payments over this threshold are listed in table A5.1 below.

During 2012–13, the ACCC conducted a radio advertising campaign to increase Indigenous consumer awareness and knowledge of their rights and responsibilities. This campaign was conducted as part of the National Indigenous Consumer Strategy (NCIS). The cost of this campaign was subsequently reimbursed by Consumer Affairs Victoria.

**Table A5.1: Advertising and market research of more than \$12 198 2012–13**

<b>Date</b>	<b>Description of advertising and market research services</b>	<b>Advertising and market research firm</b>	<b>Amount \$</b>
18/03/13 to 30/06/13	ICT Research Activities	Forrester Research	50 000
14/03/13 to 13/05/13	Consumer Survey	Roy Morgan Research	63 546

# Appendix 6: Ecologically sustainable development

## How the ACCC's activities and administration of legislation accord with principles of ecologically sustainable development

The ACCC administers legislation that ensures lawful competition, consumer protection, and regulated national infrastructure markets and services. At all times, the ACCC pursues its outcomes and objectives in a manner that provides the maximum benefit to the maximum number of consumers with the least impact on resources and the environment.

## How the ACCC's outcome contributes to ecologically sustainable development

In achieving its outcome, the ACCC employs decision making which, in line with section 3A of the *Environment Protection and Biodiversity Conservation Act 1999*, factors in the economic, environmental, social and equitable considerations over both the short and long term.

## ACCC activities that affect the environment

To ensure the ACCC is able to effectively administer legislation and regulated national infrastructure markets and services, it has established offices at nine locations around Australia. The ACCC's work aims to foster competitiveness and fairness, leading to more efficient and sustainable markets. The ACCC operates in line with the Energy Efficiency in Government Operations Policy (EEGO) and ICT Sustainability Plan 2010-15, ensuring it remains committed to environmental sustainability and performance.

## Measures taken to minimise the effect of activities on the environment

To reduce the environmental impact of its activities, the ACCC:

- buys 10 per cent green electricity for the Canberra office
- procures office equipment with low energy consumption and 65 per cent recycled content packaging
- recycles paper and cardboard products, including pulping classified waste and providing use-again office envelopes
- uses LCD computer screens
- uses information and communication technology as an alternative to business travel
- uses recycled toner cartridges where possible
- disposes of toner cartridges through a recycling outlet
- disposes of mobile phones and batteries through a recycling outlet
- services vehicles in accordance with manufacturers' specifications
- uses E10 fuels for fleet vehicles where possible

- uses power-saving modes for ICT equipment when not in use
- uses duplex printing and photocopying as a default setting on all printers and multi-function devices
- relocated its main servers to an offsite location, reducing energy consumption
- continues to reduce printer numbers and improve printing efficiency
- diverts organic waste in its Melbourne office, in addition to paper, comingled, and eWaste recycling
- places emphasis on electronic records and electronic working arrangements
- purchases minimum 50 per cent recycled content copy paper
- increased its use of ISO 14001 accredited printers for external printing services
- procures environmentally friendly toilet consumables and cleaning products
- promotes accessing ACCC publications electronically rather than in print
- optimises environmental opportunities from refurbishments and new building projects
- replaced all halogen lighting with efficient, low-energy LED lighting in Sydney office

The ACCC buys goods and services in accordance with environmental purchasing guides promoted by the Department of Sustainability, Environment, Water, Population and Communities.

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.

## Mechanisms for reviewing and increasing the effectiveness of measures

The ACCC environmental policy puts in place strategies towards better environmental and sustainable practices. The ACCC utilises a process of informal, continuous review of the various measures it employs to reduce the environmental impact of its activities.

Where further efficiencies are identified in the course of business, the ACCC endeavours to put in place the measures required to realise these efficiencies. All of the above is done in accordance with both the applicable funding and environmental guidelines available to the ACCC.

# Appendix 7: Competition and Consumer Act and other legislation

## Competition and Consumer Act

### Key legislation

*Competition and Consumer Act 2010* (Cth)

National Electricity Law and Rules

National Gas Law and Rules

National Energy Retail Law and Rules

*Telecommunications Act 1997* (Cth)

*Water Act 2007* (Cth)

*Wheat Export Marketing Act 2008* (Cth)

### Lawful competition and informed markets

**Table A7.1: Parts of the Competition and Consumer Act dealing with competition**

IV	Cartel conduct: price fixing; output restrictions; bid rigging; allocating customers, suppliers or territories  Other anti-competitive conduct: boycotts; agreements substantially lessening competition; anti-competitive disclosure of pricing and other information; misuse of market power; exclusive dealing; resale price maintenance; mergers substantially lessening competition
VII	Authorisations and notifications
XIA	The Competition Code

### Enforcement

The ACCC investigates cartel and other types of anti-competitive conduct—which are illegal for all businesses in Australia.

The ACCC will refer matters involving criminal cartel offences to the Commonwealth Director of Public Prosecutions for possible criminal prosecution.

For individuals, the cartel offence is punishable by imprisonment of up to 10 years and/or fines up to \$340 000 per contravention. Corporations found guilty of a cartel offence may be fined up to \$10 million, three times the value of the illegal benefit or, where the benefit cannot be calculated, 10 per cent of the corporate group's annual turnover (whichever is the greater).

In relation to civil cartel prohibitions and other forms of anti-competitive conduct, the ACCC may initiate court action for breaches of the Competition and Consumer Act.

To enforce the civil provisions of the Competition and Consumer Act relating to anti-competitive conduct, the ACCC can seek:

- declarations of contraventions
- findings of facts
- injunctions
- damages and compensation
- community service orders
- probation orders
- divestiture orders
- disqualification of a person from managing corporations
- adverse publicity orders
- corrective advertising, public notices and disclosure
- penalties of up to \$10 million, three times the value of the illegal benefit or, where the benefit cannot be calculated, 10 per cent of the corporate group's annual turnover (whichever is the greater) for companies; and \$500 000 for individuals.

## Fair trading and consumer protection

**Table A7.2: Parts of the Competition and Consumer Act (including the Australian Consumer Law) dealing with fair trading and consumer protection**

<b>Competition and Consumer Act</b>	
IVB	Industry codes of conduct—the franchising, horticulture, oil and unit pricing codes are mandatory codes prescribed under Part IVB
<b>Australian Consumer Law—Schedule 2 to the Competition and Consumer Act</b>	
Chapter 2	General protections: misleading or deceptive conduct; unconscionable conduct; unfair contract terms
Chapter 3	Specific protections: unfair practices: unsolicited supplies; pyramid selling; pricing; consumer guarantees; unsolicited consumer agreements; lay-by agreements; product safety and information
Chapter 4	Criminal conduct relating to fair trading and consumer protection

### **Enforcement**

To enforce the civil provisions of the Competition and Consumer Act (including the Australian Consumer Law) relating to fair trading and consumer protection, the ACCC can seek:

- declarations of contraventions
- findings of facts
- injunctions
- damages and compensation
- community service orders
- probation orders
- disqualification of a person from managing corporations
- adverse publicity orders
- corrective advertising, public notices and disclosure
- penalties of up to \$1.1 million for companies and \$220 000 for individuals, per contravention.

## Infrastructure services and markets where competition is limited

**Table A7.3: Parts of the Competition and Consumer Act dealing with regulated industries and prices surveillance**

IIIA	Access to the services of essential national infrastructure facilities such as rail tracks and grain port terminals
VIA	Price monitoring and surveillance in relation to industries or businesses as directed by the Australian Government
X	Limited exemptions for anti-competitive conduct in relation to international liner cargo shipping
XIB	Anti-competitive conduct in telecommunications
XIC	Access to services for telecommunications

### **Regulation**

The ACCC and the AER are responsible for regulating national infrastructure services (communications, energy and bulk water) and for monitoring other markets or market economies (including fuel, airports and aviation, waterfront and shipping, and postal services) where there is limited competition.

The ACCC is responsible for the economic regulation of the communications sector, including telecommunications and the National Broadband Network (NBN), to promote competition and enable efficient access to essential infrastructure. The ACCC further regulates the rural water industry in the Murray-Darling Basin, monitoring regulated water charges and enforcing compliance with Commonwealth Water Rules made under the *Water Act 2007*.

The ACCC has responsibilities in relation to rail track infrastructure, and port terminal services provided by vertically integrated port operators for the export of bulk wheat. The ACCC assesses undertakings given in respect of those services under Part IIIA of the *Competition and Consumer Act 2010* (Cth) and monitors compliance with accepted undertakings. The ACCC also carries out functions given to it in undertakings. The ACCC is also responsible for monitoring vertically integrated port operators' compliance with certain rules in the *Wheat Export Marketing Act 2008* (Cth).

The AER regulates the electricity and gas industries, setting prices for using energy networks (electricity poles and wires and gas pipelines) to transport energy, and monitoring the wholesale electricity and gas markets to ensure suppliers comply with the National Electricity Law and Rules and the National Gas Law and Rules.

Since assuming responsibility for regulation of the retail energy markets in the Australian Capital Territory (on 1 July 2012), Tasmania (on 1 July 2012) and South Australia (on 1 February 2013), the AER acquired further monitoring and enforcement roles and functions under the National Energy Retail Law and the National Energy Retail Rules. These functions include authorizing retailers to sell energy and administering the national retailer of last resort scheme aimed at protecting customers and the market in the event of a retail business failure.

## Legislative amendments in 2012–13

### Competition and consumer legislation

#### ***Amendments to Competition and Consumer Regulations 2010***

*Consumer Credit Legislation Amendment (Enhancements) Act 2012*—registered in September 2012.

Competition and Consumer Amendment Regulation 2013 (No 1)—commenced in February 2013.

### Energy regulation

#### ***Amendments to National Energy Retail Law***

National Energy Customer Framework (National Energy Retail Law, National Energy Retail Regulations and National Energy Retail Rules)—commenced on 1 July 2012 in the Australian Capital Territory and Tasmania; commenced on 1 February 2013 in South Australia.

National Electricity Rules—rule changes released by AEMC in November 2012.

### Telecommunications regulation

#### ***Amendments to telecommunications legislation***

Telecommunications Amendment Regulation 2012—commenced in September 2012

#### ***Determinations made under the Telecommunications Act 1997***

*Telecommunications (Carrier Licence Charges) Act 1997*—Determination under paragraph 15(1)(b) 2013—commenced in March 2013.

*Telecommunications (Carrier Licence Charges) Act 1997*—Determination under paragraph 15(1)(d) 2013—commenced in March 2013.

*Telecommunications Act 1997*—Determination under subsection 23(2), No. 1 of 1998 (Amendment No. 1 of 2012)—commenced in September 2012.

### Water legislation

#### ***Amendments to water legislation***

*Water Amendment (Water for the Environment Special Account) Act 2013*—commenced in February 2013.

*Water Act 2007* Basin Plan 2012—commenced November 2012.

*Water Amendment (Long term Average Sustainable Diversion Limit Adjustment) Act 2012*—commenced in November 2012.

*Water Efficiency Labelling and Standards Amendment (Scheme Enhancements) Act 2012*—commenced in July 2012.

#### ***Amendments to water regulations***

Water Amendment Regulation 2012—commenced in October 2012.

#### ***Water determinations***

Water Efficiency Labelling and Standards Determination 2013—commenced in January 2013.

## Amendments to other legislation

*Low Aromatic Fuel Act 2012*—commenced in February 2013.

*Wheat Export Marketing Amendment Act 2012*—commenced in December 2012.

*Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Act 2012*—commenced in November 2012.

*Fire Services Levy Monitor Act 2012* (Vic)—commenced in November 2012.

*Clean Energy (Excise Tariff Legislation Amendment) Act 2012*—commenced July 2012.

*Clean Energy Legislation Amendment Act 2012*—commenced July 2012.

## Amendments to standards

Amendments to Consumer (Tobacco) Information Standard 2011—registered in the Federal Register of Legislative Instruments in 2 November 2012.

# Appendix 8: Information required under the Competition and Consumer Act

## Section 171(2) reporting requirements

Section 51(1) of the *Competition and Consumer Act* provides that conduct that would normally contravene the Law may be permitted if it is specifically authorised under other Commonwealth, State or Territory legislation. Section 171(2) of the Law requires this report to list all such laws.

### Exceptions under Commonwealth, state and territory legislation

Some Commonwealth, state and territory Acts permit conduct that would normally contravene the *Competition and Consumer Act*. Section 51(1) of the *Competition and Consumer 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 which the ACCC has been notified of or has otherwise become aware of.

#### **Commonwealth**

*Australian Postal Corporation Act 1989*

*Banking Act 1959*

*Competition and Consumer Act 2010* (sections 173 and 151DA)

*Customs Act 1901*

*Financial Sector (Business Transfer and Group Restructure) Act 1999*

*Insurance Act 1973*

*Life Insurance Act 1995*

*Liquid Fuel Emergency Act 1984*

*Payment Systems (Regulation) Act 1998*

*Road Safety Remuneration Act 2012*

*Stronger Futures in the Northern Territory Act 2012*

*Telecommunication Act 1997*

#### **Australian Capital Territory**

*Cemeteries and Crematoria Act 2003*

*Competition Policy Reform Act 1996*

*Financial Management Act 1996*

*Government Procurement Act 2001*

*Health Act 1993*

*Insurance Authority Act 2005*

*Road Transport (Public Passenger Services) Act 2001*

*Territory Records Act 2002*

*Racing Act 1999*

***New South Wales***

*Australian Jockey and Sydney Turf Clubs Merger Act 2010*

*Casino Control Regulation 2009*

*Coal Industry Act 2001*

*Competition Policy Reform (New South Wales) Act 1995*

*Electricity Generator Assets (Authorised Transactions) Act 2012*

*Gaming Machines Act 2001*

*Health Services Act 1997*

*Hunter Water Act 1991*

*Industrial Relations (Ethical Clothing Trades) Act 2001*

*Industrial Relations Act 1996*

*James Hardie Former Subsidiaries (Winding up and Administration) Act 2005*

*Liquor Act 2007*

*Major Events Act 2009*

*National Broadband Network Co-ordinator Act 2010*

*NSW Self Insurance Corporation Act 2004*

*Poultry Meat Industry Act 1986*

*Protection of the Environment Operations Act 1997*

*Racing Administration Act 1998*

*Rice Marketing Act 1983*

*Thoroughbred Racing Act 1996*

*Totalizator Act 1997*

***Northern Territory***

*Competition Policy Reform (Northern Territory) Act 1996*

*Consumer Affairs and Fair Trading Act 1990*

*Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice) Regulations 1996*

*Electricity Reform Act 2000*

*Liquor Act 1978*

*Water Supply and Sewerage Act 2000*

**Queensland**

*Chicken Meat Industry Committee Act 1976*  
*Competition Policy Reform (Queensland) Act 1996*  
*Gladstone Power Station Agreement Act 1993*  
*Sugar Industry Act 1999*  
*Transport Operations (Passenger Transport) Act 1994*

**South Australia**

*Authorised Betting Operations Act 2000*  
*Authorised Betting Operations Regulations 2001*  
*Cooper Basin (Ratification) Act 1975*  
*Industries Development Act 1941*  
*Competition Policy Reform Act 1996*  
*Roxby Downs (Indenture Ratification) Act 1982*

**Tasmania**

*Competition Policy Reform (Tasmania) Act 1996*  
*Electricity Reform Act 2012*  
*Electricity Supply Industry Act 1995*  
*Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995*

**Victoria**

*Competition Policy Reform (Victoria) Act 1995*  
*Electricity Industry (Residual Provisions) Act 1993*  
*Gambling Regulation Act 2003*  
*Gas Industry (Residual Provisions) Act 1994*  
*Health Services Act 1988*  
*Legal Profession Act 2004*  
*Liquor Control Reform Act 1998*  
*Outworkers (Improved Protection) Act 2003*  
*Owner Drivers and Forestry Contractors Act 2005*  
*State Owned Enterprises Act 1992*

**Western Australia**

*Competition Policy Reform (Western Australia) Act 1996*  
*Electricity Corporations Act 2005*  
*Electricity Industry (Wholesale Electricity Market) Regulations 2004*  
*Electricity Industry Act 2004*  
*Energy Coordination Act 1994*

## Section 171(3) reporting requirements

### Time taken to make final determinations and decisions

#### *Final determinations on access disputes under section 44V*

The ACCC did not issue any final determinations on access disputes in 2012–13.

#### *Decisions on access undertaking applications and access code applications*

##### Rail

On 1 June 2012, ARTC submitted its annual compliance documentation for the six month period from 1 July to 31 December 2011. ARTC submitted revisions to its compliance documentation on 13 July 2012 and 8 March 2013. On 4 April 2013, the ACCC made a determination that ARTC had complied with the relevant provisions in the 2011 Hunter Valley Access Undertaking for the six month period.

On 7 September 2012, ARTC submitted an application to the ACCC to vary its 2011 Hunter Valley Access Undertaking. The variation application related to the definition of an efficient train and Initial Indicative Services. The ACCC made a decision to consent to the variation on 17 October 2012. The ACCC's timeframe for making a decision was extended during the assessment process to allow for public consultation with stakeholders.

On 4 September 2012, ARTC submitted an application to the ACCC to vary its 2008 Interstate Access Undertaking. The variation application related to the incorporation of the Southern Sydney Freight Line and associated access charge into the undertaking. The ACCC made a decision to consent to the variation on 10 April 2013. The ACCC's timeframe for making a decision was extended during the assessment process to allow for public consultation with stakeholders.

##### Wheat export marketing arrangements

On 26 November 2012, Co-operative Bulk Handling (CBH) made an application to vary its 2011 Access Undertaking. The changes related to including an obligation on CBH to comply with continuous disclosure rules. On 5 December 2012, the ACCC made a decision to consent to the application.

On 22 March 2013, CBH made another application to vary its 2011 Access undertaking. The changes related to revisions to CBH's auction procedures and a process to buy back capacity. The clock was stopped on the ACCC's assessment period while the ACCC conducted public consultation on the variation. At 30 June 2013, the ACCC had not made a final decision on the application.

On 22 March 2013, Australian Bulk Alliance (ABA) formally lodged an Access undertaking to apply for the period from 1 October 2013 to 30 September 2014. The clock was stopped on the ACCC's assessment period while the ACCC conducted public consultation on the undertaking. At 30 June 2013, the ACCC had not made a final decision on the undertaking.

#### *The time taken to make decisions on applications under subsection 44PA(1)*

Nil decisions were made on applications under Subsection 44PA(1).

## Notices under sections 155 and 155A

During 2012–13 the ACCC issued 358 notices under section 155.

The change on 1 January 2011 from the *Trade Practices Act 1974* to the *Competition and Consumer Act 2010* requires three categories of notices for consumer protection conduct:

- Where the ACCC is investigating conduct before 1 January 2011 for possible breaches of provisions of the consumer protection provisions of the Trade Practices Act that were repealed on 1 January 2011, the section 155 notice must be issued under the Trade Practices Act pursuant to the transitional provision contained in item 6 Schedule 7 to the *Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010* (Cth).
- Where the ACCC is investigating conduct after 1 January 2011 for possible breaches of the new Australian Consumer Law, the section 155 notice must be issued under the Competition and Consumer Act.
- Where the ACCC is investigating conduct believed to have taken place both before and after 1 January 2011 for possible breaches of the consumer protection provisions of the Trade Practices Act that were repealed on 1 January 2011 and the new Australian Consumer Law, two section 155 notices are required, with one issued under the Trade Practices Act, pursuant to the transitional provision, and one issued under the Competition and Consumer Act, although the ACCC's practice is to combine both notices into the one document.

From 1 January 2011, all notices issued for restrictive trade practices conduct are issued under the Competition and Consumer Act.

The ACCC did not issue any notices under section 155A during 2012–13.

### ***General description of matters for which notices were given***

During 2012–13 the ACCC issued 358 notices under section 155.

The notices issued in 2012–13 were as follows:

#### *Notices issued under the Trade Practices Act 1974*

- The ACCC did not issue any section 155 notices under the *Trade Practices Act 1974* in 2012–13.

#### *Notices issued under the Competition and Consumer Act 2010*

- 268 notices under section 155(1)(a) and (b) (requiring the addressee to furnish information in writing and to produce documents)
- two notices under section 155(1)(a) (requiring the addressee to furnish information)
- 11 notices under section 155(1)(b) (requiring the addressee to produce documents)
- 69 notices under section 155(1)(c) (requiring the addressee to appear in person and give evidence).

#### *Notices issued under both the Trade Practices Act 1974 and the Competition and Consumer Act 2010*

- eight notices under section 155(1)(a) and (b) (requiring the addressee to furnish information in writing and to produce documents).

Notices were issued in the course of investigations into conduct potentially in contravention of restrictive trade practices provisions, unconscionable conduct provisions, industry codes and consumer protection provisions of the *Trade Practices Act 1974* and/or the *Competition and Consumer Act 2010*.

Notices issued under section 155AAA of the Trade Practices Act

- one notice was issued under section 155AAA of the Competition and Consumer Act.
- one notice was issued under section 155AAA of both the Trade Practices Act and the Competition and Consumer Act.

### Challenges to the validity of notices

No challenges to the validity of notices were received by the ACCC in 2012–13.

### Search warrants issued or signed

No search warrants were issued by a judge under section 135Z or signed by a judge under section 136.

One search warrant was issued by a magistrate under section 154X. No search warrants were signed by a magistrate under section 154Y.

There were no challenges to the validity of search warrants.

### Entry to premises

There were no entries onto premises under section 133B or 133C, Division 6 of Part XI. There was one entry to premises under Part XID.

### Complaints received by the Commission

Details on the number of complaints received by the ACCC in 2012–13, a summary of the kinds of complaints received and how they were dealt with and a general description of the major matters investigated are under Goal 4, in Part 3 on pages 177–9.

### Substantiation notices issued

- 18 notices under section 219 of the Australian Consumer Law (requiring the addressee to give information and/or produce documents to substantiate a claim or representation).

### Audit notices issued

- 31 notices under section 51ADD (requiring the addressee to give information or produce documents).

### Intervention in proceedings

The ACCC did not intervene in any proceedings in 2012–13.

# Appendix 9: Undertakings accepted and infringement notices paid in 2012–13

## Goal 1: Maintain and promote competition and remedy market failure

### Competition and Consumer Act section 87B undertakings

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#### *Price fixing arrangements*

#### **All Homes Pty Ltd**

s. 87b undertaking dated 26 February 2012.

The ACCC accepted the undertaking in relation to concerns that All Homes had attempted to induce real estate agents to arrive at an understanding where they would not charge less than two per cent of the sale price of a property for the supply of real estate agents services.

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#### *Resale price maintenance*

#### **Chemical Formulators Pty Ltd**

s. 87b undertaking dated 30 October 2012.

The ACCC accepted an undertaking from Chemical Formulators (Chemform), a manufacturer and supplier of commercial cleaning products in Australia, after Chemform admitted that it was likely to have engaged in resale price maintenance.

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#### *Merger remedy*

#### **APA Group (APA)—proposed acquisition of Hastings Diversified Utilities Fund**

s. 87b undertaking dated 19 July 2012.

The ACCC announced its decision not to oppose the proposed acquisition of Hastings Diversified Utilities Fund (HDF) by the APA Group (APA), subject to court-enforceable divestiture undertakings from APA. The undertaking required APA to divest the Moomba Adelaide Pipeline System to address the competition concerns identified by the ACCC.

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#### *Merger remedy*

#### **Nestlé S.A.—proposed acquisition of Pfizer Nutrition**

s. 87b undertakings dated 22 November 2012.

The ACCC decided to not oppose Nestlé's proposed acquisition of Pfizer Nutrition after accepting undertakings from Nestlé and Pfizer Australia Pty Ltd. The undertaking provided by Nestlé required it to license Pfizer Nutrition's Australian infant nutrition business' brand portfolio to an independent purchaser to be approved by the ACCC for an exclusive 10-year period, followed by a further 10-year 'black out' period in which Nestlé would not be permitted to re-enter the markets with Pfizer's brands. Pfizer Australia Pty Ltd also provided an undertaking to the ACCC to provide transitional services and transfer key employees to the approved purchaser of the divestiture business.

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*Resale price maintenance***Oticon Australia Pty Ltd**

s. 87b undertaking dated 18 December 2012.

The ACCC accepted an undertaking from Oticon, a wholesaler and retailer seller of hearing instruments (hearing aids) in Australia, after they engaged in resale price maintenance. In September 2011, Oticon agreed to supply hearing aids to an independent distributor on the condition that they were sold at prices closer to Oticon's recommended retail prices; and offering to supply hearing aids to another independent distributor on the condition that it would sell at a price within 15 per cent of Oticon's recommended retail prices.

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*Resale price maintenance***Valiant Enterprises Pty Ltd**

s. 87b undertaking dated 18 September 2012

The ACCC accepted an undertaking from Valiant Enterprises in relation to Valiant acknowledging they engaged in resale price maintenance. Valiant, a distributor of baby products, attempted to induce an online retailer not to advertise the AngelCare AC 1100 baby monitor for sale at a price less than specified by Valiant.

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## Goal 2: Protect the interests and safety of consumers and support fair trading in markets

### Competition and Consumer Act section 87B undertakings accepted

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*Misleading advertising***CNT Corp Pty Ltd**

s. 87b undertaking dated 15 October 2012.

The ACCC accepted the undertaking after CNT Corp offered and charged for wholesale 'fibre to the premises' (FTTP) broadband internet services at data transfer rates that its network could not support.

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*Credence claims***Angela Jane Delgiacco**

s. 87b undertaking dated 6 December 2012.

The ACCC accepted an undertaking from Angela Jane Delgiacco of Alice Sundown Aboriginal Art after making false or misleading representations in a certificate of authenticity for Indigenous artwork sold on eBay under the username 'sundownnt01'.

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*Carbon price***EquipserveSolutions Pty Ltd**

s. 87b undertaking dated 25 July 2012.

The ACCC accepted the undertaking in relation to statements made by Equipserve in an email to its customers which attributed the entire amount of an increase in the price of refrigerant gas to the carbon price, when that was not the case.

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*Misleading advertising***Foxtel Cable Television Pty Ltd**

s. 87b undertaking dated 15 May 2013.

The ACCC accepted an undertaking from Foxtel in relation to representations that customers who subscribed to a 12-month plan between 12 February 2012 and 5 April 2012 would receive a free 22 inch neoniQ television within 10 days of installation of their Foxtel service. However, free televisions were not dispatched within 10 days of installation to a significant number of customers who signed up to the offer.

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*Product safety***G & R Wills Holdings Pty Ltd**

s. 87b undertaking dated 20 August 2012.

The ACCC accepted the undertaking in relation to G & R Wills supplying baby walkers, and offering for supply two models of strollers, which did not comply with the relevant mandatory product safety standards.

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*Credence claims***Happiness Road Investment Group Pty Ltd**

s. 87b undertaking dated 26 June 2013.

The ACCC accepted an undertaking from Happiness Road Investment Group in relation to misleading 'Made in Australia' claims that were made on its website in regard to its ugg boots being Australian made when in fact all of its ugg boots were made in China.

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*Misleading advertising***Nissan Motor Co (Australia) Pty Ltd**

s. 87b undertaking dated 28 November 2012.

The ACCC accepted an undertaking from Nissan in relation to misleading representations in the publication of an advertisement for the for the Nissan Dualis vehicle.

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*Carbon pricing***Retail Food Group Ltd**

s. 87b undertaking dated 16 July 2012.

The ACCC accepted the undertaking in relation to comments made by Brumby's Bakeries to its franchisees suggesting that franchisees link retail price increases to the carbon price.

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*Credence claims premium***Samsung Electronics Australia Pty Ltd**

s. 87b undertaking dated 17 January 2013.

The ACCC accepted the undertaking in relation to misleading comparative energy saving representations between its Bubble Wash washing machines and conventional washing machines. The energy savings representations by Samsung were made to consumers in an in-store demonstration kit incorporating a promotional video which was displayed at approximately 90 retail stores in the period from March 2011 to October 2011.

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*Misleading advertising***Toyota Motor Corporation Australia Ltd**

s. 87b undertaking dated 31 January 2013.

The ACCC accepted the undertaking after Toyota Australia admitted that they may have engaged in conduct that was misleading or deceptive, or likely to mislead or deceive, in relation to the use of descriptions including the expressions 'leather', 'all leather', 'leather accent' and 'leather accented' in advertising and promotional materials.

*Telecommunications***Utel Networks Pty Ltd**

s. 87b undertaking dated 7 June 2013.

The ACCC accepted the undertaking from Utel Networks in relation to misrepresentations made by the company's telemarketers. These misrepresentations included that it was affiliated or associated with the consumer's existing telecommunications provider and the quality of the consumer's telecommunication service would not change upon being transferred to Utel from a rival provider, when this was not the case.

*Horticulture code***V & A Liangos Pty Ltd**

s. 87b undertaking dated 21 February 2013.

The ACCC accepted the undertaking from V & A Liangos in relation to alleged breaches of the Horticulture Code of Conduct, by trading in horticulture produce with growers without entering into horticulture produce agreements with those growers; and not preparing, publishing or making publicly available a document that sets out the general terms and conditions under which it will trade with growers of horticulture product.

**Infringement notices paid**

<b>Trader</b>	<b>Date paid</b>	<b>Amount</b>
GFC Berwick Pty Ltd	27 July 2012	One notice totalling \$6600
G & R Wills Holdings Pty Ltd	16 August 2012	Three notices totalling \$19 800
CNT Corp Pty Ltd	11 October 2012	Three notices totalling \$19 800
Nissan Motor Co (Australia) Pty Ltd	22 November 2012	Three notices totalling \$19 800
Super-A-Mart Pty Ltd	5 March 2013	Two notices totalling \$13 200
Craftmatic Pty Ltd	28 March 2013	Three notices totalling \$19 800
MOI International Pty Ltd	30 May 2013	Two notices totalling \$20 400
Utel Networks Pty Ltd	7 June 2013	Three notices totalling \$19 800
iiNet Limited	17 June 2013	One notice totalling \$102 000
Coles Supermarkets Australia Pty Ltd	27 June 2013	Six notices totalling \$61 200

## **Goal 3: Promote the economically efficient operation of, use of and investment in monopoly infrastructure**

### **Water Act section 163 undertakings**

No undertakings were accepted under section 163 of the Water Act.

### **Water Act section 156 infringement notices**

No infringement notices were issued under section 156 of the Water Act.

### **Australian Energy Regulator Infringement Notices**

Aurora Energy on 13 December 2012 paid two notices totalling \$40 000.

# Appendix 10: Litigation matters, review proceedings and tribunal proceedings in 2012–13

## ACCC

### Goal 1: Promote vigorous lawful competition and informed markets

#### Litigation concluded in 2012–13

<i>Cartel</i>	<b>Cathay Pacific Airways Ltd</b>	
	commenced	30 April 2009
	concluded	6 December 2012
	outcome	\$11.25 million in penalties for engaging in cartel conduct.
<i>Cartel</i>	<b>Emirates</b>	
	commenced	18 August 2009
	concluded	11 October 2012
	outcome	\$10 million in penalties for engaging in cartel conduct.
<i>Cartel</i>	<b>PT Garuda Indonesia Ltd (appeal)</b>	
	commenced	7 October 2011
	concluded	7 September 2012
	outcome	Garuda's appeal dismissed with costs.
<i>Cartel</i>	<b>Singapore Airlines Cargo Pty Ltd</b>	
	commenced	22 December 2009
	concluded	6 December 2012
	outcome	\$11.75 million in penalties for engaging in cartel conduct.
<i>Cartel</i>	<b>Thai Airways International PCL</b>	
	commenced	11 January 2013
	concluded	19 February 2013
	outcome	\$7.5 million in penalties for engaging in cartel conduct.

<i>Cartel</i>	<b>Viscas Corporation (Proceedings continue against Prysmian Cavi e Sistemi &amp; Ors)</b>
	commenced   23 September 2009
	concluded   5 April 2013
	jurisdiction   Federal Court Adelaide
	outcome   \$1.35 million in penalties for engaging in bid rigging and cartel conduct.

### Litigation continuing at the end of 2012-13

<i>Cartels</i>	<b>Air New Zealand Ltd</b>
	commenced   12 May 2010
	jurisdiction   Federal Court Sydney
	awaiting judgment
<i>Anti-competitive agreements</i>	<b>ANZ Banking Corporation Ltd</b>
	commenced   25 July 2007
	jurisdiction   Federal Court Brisbane
	awaiting judgment
<i>Misuse of Market Power</i>	<b>Cement Australia</b>
	commenced   12 September 2008
	jurisdiction   Federal Court Brisbane
	awaiting judgment
<i>Anti-competitive agreements</i>	<b>Flight Centre Ltd</b>
	commenced   9 March 2012
	jurisdiction   Federal Court Brisbane
	awaiting judgment
<i>Cartels</i>	<b>Prysmian Cavi e Sistemi</b>
	commenced   23 September 2009
	jurisdiction   Federal Court Adelaide
	continues following settlement with some of the parties.
<i>Cartels</i>	<b>P. T. Garuda Indonesia Ltd</b>
	commenced   2 September 2009
	jurisdiction   Federal Court Sydney
	awaiting judgment
<i>Cartels</i>	<b>Renegade Gas Pty Ltd, Speed-E-Gas Ltd &amp; Ors</b>
	commenced   23 August 2012
	jurisdiction   Federal Court Sydney
<i>Cartels</i>	<b>Yazaki Corporation &amp; Australian Arrow Pty Ltd</b>
	commenced   13 December 2012
	jurisdiction   Federal Court Melbourne
<i>Misuse of market power</i>	<b>Visa (Inc) &amp; Ors</b>
	commenced   4 February 2013
	jurisdiction   Federal Court Sydney

## Goal 2: Encourage fair trading, protection of consumers and product safety

### Litigation concluded in 2012-13

<i>Energy</i>	<b>ACN 135 183 372 Pty Ltd (formerly known as Energy Watch)</b>
	commenced   26 August 2011
	concluded   13 July 2012
	jurisdiction   Federal Court Melbourne
	outcome   penalties totalling \$2.015 million, declarations and costs for misleading advertising relating to representations about the nature of the company's service and the savings consumers would make by switching energy retailers through the company's service.
<i>Small business scam</i>	<b>Adepto Publication Pty Ltd &amp; Ors</b>
	commenced   30 September 2010
	concluded   25 March 2013
	jurisdiction   Federal Court Sydney
	outcome   penalties totalling \$750 000, declarations, injunctions and costs for false and misleading representations in relation to advertising services that were never requested.
<i>Door-to-door sales</i>	<b>AGL Sales Pty Ltd &amp; Ors</b>
	commenced   26 March 2012
	concluded   20 May 2013
	jurisdiction   Federal Court Melbourne
	outcome   penalties totalling \$1.755 million, declarations, corrective advertising, implementation of compliance program and contribution to ACCC costs in relation to illegal door-to-door selling practices.
<i>Online trading</i>	<b>Air Asia Berhad</b>
	commenced   19 January 2012
	concluded   14 December 2012
	jurisdiction   Federal Court Melbourne
	outcome   \$200 000 in penalties for contravening single pricing provisions.
<i>Product safety</i>	<b>Cotton On Kids Pty Ltd</b>
	commenced   5 October 2011
	concluded   18 December 2012
	jurisdiction   Federal Court Melbourne
	outcome   \$1 million penalties in relation to the supply of unsafe children's nightdresses and pyjamas.

<i>Vulnerable and disadvantaged consumers</i>	<b>EDirect Pty Ltd &amp; Ors (2011)</b>	
	commenced	25 March 2011
	concluded	6 September 2012
	jurisdiction	Federal Court Brisbane
	outcome	\$2.5 million in penalties for misleading and deceptive conduct in relation to mobile phone contracts EDirect sold through telemarketing, into areas where it was unable to supply the associated mobile phone services at the nominated address of certain consumers, due to there being no network coverage.
<i>Vulnerable and disadvantaged consumers</i>	<b>EDirect Pty Ltd &amp; Ors (2010)</b>	
	commenced	18 August 2010
	concluded	21 September 2012
	jurisdiction	Federal Court Darwin
	outcome	application dismissed in relation to alleged system and specific unconscionable conduct and misleading and deceptive conduct in telemarketing of mobile phone services.
<i>Small business</i>	<b>Exclusive Media and Publishing</b>	
	commenced	21 September 2011
	concluded	20 September 2012
	jurisdiction	Federal Court Brisbane
	outcome	penalties totalling \$500 000, declarations, injunction and contribution to costs in relation to misleading and deceptive conduct, harassment and coercion and unconscionable conduct in relation to advertising services that were never requested or provided.
<i>Telecommunications</i>	<b>Global One Mobile Entertainment Ltd &amp; Anor (appeal)</b>	
	commenced	6 July 2011
	concluded	14 September 2012
	jurisdiction	Federal Court Sydney
	outcome	Global One's appeal dismissed with costs.
<i>Online advertising</i>	<b>Google Inc (appeal)</b>	
	commenced	22 June 2012
	concluded	6 February 2013
	jurisdiction	High Court of Australia
	outcome	Google Inc's appeal upheld and the High Court determined that Google did not itself engage in misleading or deceptive conduct.
<i>Credence claims</i>	<b>Kingsland Meatworks and Cellars Pty Ltd &amp; Anor</b>	
	commenced	18 August 2011
	concluded	5 February 2013
	jurisdiction	Federal Court Melbourne
	outcome	\$50 000 in penalties, three year injunction, corrective ads and costs for misleading place of origin representations.

*Pyramid selling***Leslie Forsyth Stott**

commenced		19 July 2012
concluded		7 February 2013
jurisdiction		Federal Court Melbourne
outcome		Disqualification order for managing a company for five years, declarations and permanent injunction.

*Vulnerable and disadvantaged consumers***Lux Distributors Pty Ltd**

commenced		10 May 2012
concluded		8 February 2013
jurisdiction		Federal Court Melbourne
outcome		ACCC case dismissed. The ACCC has appealed this decision.

*Misleading advertising***Metricon Homes Qld Pty Ltd**

commenced		25 June 2011
concluded		31 July 2012
jurisdiction		Federal Court Brisbane
outcome		\$800 000 in penalties, declarations, undertaking to not make similar representations for a period of three years and contribution towards ACCC costs for misleading and deceptive conduct in advertising for the build and sale of homes.

*Door-to-door selling***Neighbourhood Energy Pty Ltd & Anor**

commenced		26 March 2012
concluded		27 September 2012
jurisdiction		Federal Court Melbourne
outcome		penalties totalling \$1 million, declarations, injunctions and contribution to costs in relation to door-to-door selling practices.

*Misleading advertising***Nonchalant Pty Ltd trading as Abel Rent-a-Car**

commenced		14 January 2013
concluded		18 June 2013
jurisdiction		Federal Court Brisbane
outcome		\$30 000 in penalties and declarations in relation to misleading advertising for fees in relation to motor vehicle rentals.

*Credence claims***Pepe's Ducks Ltd**

commenced		9 July 2012
concluded		18 December 2012
jurisdiction		Federal Court Melbourne
outcome		\$375 000 in penalties plus costs for false, misleading or deceptive conduct in relation to its advertising of 'open range' duck products.

<i>Credence claims</i>	<b>Rosie's Free Range Eggs (Rosemary Bruhn)</b>
	commenced   2 March 2012
	concluded   5 September 2012
	jurisdiction   Federal Court Adelaide
	outcome   \$50 000 in penalties, declaration, injunction, corrective publication orders, compliance training and costs for conduct involving substituting cage eggs for free range eggs.
<i>Misleading advertising</i>	<b>The Jewellery Group (trading as Zamels)</b>
	commenced   5 April 2011
	concluded   18 January 2013
	jurisdiction   Federal Court Adelaide
	outcome   \$250 000 in penalties, declaration, corrective orders, implementation of a trade practices compliance program and costs for misleading consumers savings made on jewellery. The Jewellery Group has appealed the decision.
<i>Telecommunications</i>	<b>TPG Internet Pty Ltd (appeal)</b>
	commenced   4 July 2012
	concluded   4 April 2013
	jurisdiction   Full Federal Court Melbourne
	outcome   \$50 000 in penalties in relation to misleading television advertisements and failure to prominently display in initial advertisements the single price for the advertised services. The ACCC has sought special leave from the High Court to appeal the Full Federal Court's decision.
<i>Credence claims</i>	<b>UNJ Millenium Pty Ltd &amp; Anor</b>
	commenced   1 June 2012
	concluded   3 October 2012
	jurisdiction   Federal Court Brisbane
	outcome   \$55 000 in penalties for false misleading or deceptive conduct in relation to its advertising of wool and sheepskin products.
<b>Litigation continuing at the end of 2012-13</b>	
<i>Unfair contract terms</i>	<b>Advanced Medical Institute Pty Ltd &amp; Ors</b>
	commenced   21 December 2010
	jurisdiction   Federal Court Melbourne
<i>Small business scam</i>	<b>Artorios Ink Pty Ltd</b>
	commenced   10 September 2012
	jurisdiction   Federal Court Melbourne
<i>Consumer guarantees</i>	<b>Avitalb Pty Ltd (trading as Harvey Norman)</b>
	commenced   12 June 2013
	jurisdiction   Federal Court Perth

<i>Consumer protection</i>	<b>BAJV Pty Ltd t/as Europcar</b> commenced   10 November 2011 jurisdiction   Federal Court Hobart awaiting judgment
<i>Consumer protection</i>	<b>Breast Check Pty Ltd</b> commenced   21 December 2011 jurisdiction   Federal Court Perth awaiting judgment
<i>Credence claims</i>	<b>Bunavit Pty Ltd (trading as Harvey Norman)</b> commenced   12 June 2013 jurisdiction   Federal Court Brisbane
<i>Unfair contract terms</i>	<b>ByteCard Pty Limited</b> commenced   22 April 2013 jurisdiction   Federal Court Perth
<i>Consumer guarantees</i>	<b>Carnavit Pty Ltd (trading as Harvey Norman)</b> commenced   12 June 2013 jurisdiction   Federal Court Sydney
<i>Credence claims</i>	<b>Coles Supermarkets Australia Pty Ltd</b> commenced   12 June 2013 jurisdiction   Federal Court Melbourne
<i>Product safety</i>	<b>Dateline Imports Pty Ltd</b> commenced   25 June 2012 jurisdiction   Federal Court Brisbane
<i>Credence claims</i>	<b>DuluxGroup (Australia) Pty Ltd</b> commenced   5 December 2012 jurisdiction   Federal Court Perth
<i>Door-to-door selling</i>	<b>EnergyAustralia Pty Ltd (formerly TRUenergy Pty Ltd) &amp; Ors</b> commenced   7 March 2013 jurisdiction   Federal Court Melbourne
<i>Vulnerable and disadvantaged person</i>	<b>Excite Mobile Pty Ltd</b> commenced   7 December 2011 jurisdiction   Federal Court Adelaide Awaiting judgment
<i>Consumer guarantees</i>	<b>Harvey Norman Gordon Superstore Pty Ltd</b> commenced   20 November 2012 jurisdiction   Federal Court Sydney
<i>Consumer guarantees</i>	<b>Hewlett-Packard Australia Pty Ltd</b> commenced   16 October 2012 jurisdiction   Federal Court Sydney awaiting judgment
<i>Consumer guarantees</i>	<b>HP Superstore Pty Ltd (trading as Harvey Norman)</b> commenced   12 June 2013 jurisdiction   Federal Court Melbourne

<i>Consumer protection</i>	<b>Homeopathy Plus! Australia Pty Ltd &amp; Ors</b> commenced   19 February 2013 jurisdiction   Federal Court Sydney
<i>Consumer guarantees</i>	<b>Launceston Superstore Pty Ltd (trading as Harvey Norman)</b> commenced   12 June 2013 jurisdiction   Federal Court Melbourne
<i>Credence claims</i>	<b>Luv-a-Duck Pty Ltd</b> commenced   15 March 2013 jurisdiction   Federal Court Melbourne
<i>Vulnerable and disadvantaged consumers</i>	<b>Lux Distributors Pty Ltd (appeal)</b> commenced   1 March 2013 jurisdiction   Full Federal Court Melbourne
<i>Consumer guarantees</i>	<b>Mandurvit Pty Ltd (trading as Harvey Norman)</b> commenced   12 June 2013 jurisdiction   Federal Court Perth
<i>Consumer guarantees</i>	<b>Moonah Superstore Pty Ltd (trading as Harvey Norman)</b> commenced   12 June 2013 jurisdiction   Federal Court Melbourne
<i>Consumer guarantees</i>	<b>Oxteha Pty Ltd (trading as Harvey Norman)</b> commenced   12 June 2013 jurisdiction   Federal Court Brisbane
<i>Credence claims</i>	<b>P &amp; N Pty Ltd &amp; Ors</b> commenced   3 May 2013 jurisdiction   Federal Court Adelaide
<i>Consumer protection</i>	<b>Safe Breast Imaging Pty Ltd &amp; Anor</b> commenced   21 December 2011 jurisdiction   Federal Court Perth awaiting judgment
<i>Small business scam</i>	<b>Safety Compliance Pty Ltd &amp; Ors</b> commenced   16 April 2012 jurisdiction   Federal Court Sydney
<i>Consumer guarantees</i>	<b>Salecomp Pty Ltd (trading as Harvey Norman)</b> commenced   12 June 2013 jurisdiction   Federal Court Melbourne
<i>Scam</i>	<b>Sensaslim Australia Pty Ltd &amp; Ors</b> commenced   16 June 2011 jurisdiction   Federal Court Sydney awaiting judgment
<i>Misleading advertising</i>	<b>Taxsmart Group Pty Ltd &amp; Ors</b> commenced   20 June 2013 jurisdiction   Federal Court Melbourne

<i>Misleading advertising</i>	<b>The Jewellery Group (trading as Zamels) (appeal)</b> commenced   29 January 2013 jurisdiction   Full Federal Court Adelaide
<i>Vulnerable and disadvantaged consumers</i>	<b>Titan Marketing Pty Ltd &amp; Anor</b> commenced   14 June 2013 jurisdiction   Federal Court Brisbane
<i>Credence claims</i>	<b>Turi Foods Pty Ltd &amp; Ors</b> commenced   5 September 2011 jurisdiction   Federal Court Melbourne continues following settlement with some of the parties. awaiting judgment
<i>Alleged contempt</i>	<b>Peter Foster</b> commenced   11 November 2011 jurisdiction   Federal Court Sydney awaiting judgment

## Other proceedings

### Concluded in 2012–13

Cooperative Bulk Handling Limited—exclusive dealing notification

On 19 April 2013, the Australian Competition Tribunal issued a decision affirming the ACCC's notice revoking an exclusive dealing notification lodged by Co-operative Bulk Handling Limited (CBH). The notified conduct involved CBH requiring Western Australian grain growers who use CBH's 'up-country' grain storage facilities to also use CBH's transport services to move grain to port for export.

For more information see the case study in part 3 at page 53.

## Public warning notices

There were no public warning notices issued in 2012–13.

## Disqualification orders

### Orders made during 2012–13

Mr Leslie Forsyth Stott

Contravention: Sections 52, 59(2), 65AAC TPA and 18, 37(2), 44 CCA

Ordered: 7 February 2013, disqualification from managing a corporation for five years.

### Orders sought in proceedings continuing at the end of 2012–13

Mr Jacov (Jack) Vaisman (AMI)

Alleged contravention: Section 51AB

One sought (still before the Court)

Mr Peter Foster (Sensaslim)

Alleged contravention: Sections 18 and 29(1)

One sought (still before the Court)

Mr Adam Adams (Sensaslim)

Alleged contravention: Sections 18 and 29(1)

One sought (still before the Court)

Mr Peter O'Brien (Sensaslim)

Alleged contravention: Sections 18 and 29(1)

One sought (still before the Court)

Mr Michael Boyle (Sensaslim)

Alleged contravention: Sections 18 and 29(1)

One sought (still before the Court)

Ms Joanne Firth (Safe Breast Imaging Pty Ltd)

Alleged contravention: Sections 52, 53(c) and 55A TPA and 18, 29(1)(g) ACL

One sought (still before the Court)

Ms Fiona Schimmel (Safety Compliance Pty Ltd)

Alleged contravention: Sections 52, 53(a), 53(d), 53(f), 60 TPA and 18, 29(1)(a), 29(1)(d), 29(1)(h), 29(1)(l), 50(1)(a) ACL

One sought (still before the Court)

Mr Dean King (Safety Compliance Pty Ltd)

Alleged contravention: Sections 52, 53(a), 53(d), 53(f), 60 TPA and 18, 29(1)(a), 29(1)(d), 29(1)(h), 29(1)(l), 50(1)(a) ACL

One sought (still before the Court)

Mr Shane Black (Safety Compliance Pty Ltd)

Alleged contravention: Sections 52, 53(a), 53(d), 53(f), 60 TPA and 18, 29(1)(a), 29(1)(d), 29(1)(h), 29(1)(l), 50(1)(a) ACL

One sought (still before the Court)

Mr Tuan Nguyen (Artorios Ink Pty Ltd)

Alleged contravention: Sections 18, 29(1)(d), 29(1)(h) and 40(1) ACL

One sought (still before the Court)

Mr Thuan Nguyen (Artorios Ink Pty Ltd)

Alleged contravention: Sections 18, 29(1)(d), 29(1)(h) and 40(1) ACL

One sought (still before the Court)

## AER

### Litigation concluded in 2012–13

SPI Electricity PTY

Commenced May 2012

Concluded 31 January 2013

### Australian Competition Tribunal matters

Tribunal decision on AER electricity distribution determination arrangements for Victoria, January 2013

# Appendix 11: Draft and final decisions in relation to regulated industries in 2012–13

## AER

### Electricity Transmission

- Final decision: Electricity transmission determination—ElectraNet (SA)—Regulatory control period 1 July 2013 to 30 June 2018, April 2013
- Final decision and electricity transmission determination: Murraylink (Vic-SA)—Regulatory control period 1 July 2013 to 30 June 2018, April 2013
- Draft decision: Negotiated transmission service criteria SP AusNet, April 2013
- Final decision: Approve SP AusNet negative cost pass through for Easement Tax Change Event, March 2013
- Final decision: Include nominated cost pass through events in Powerlink's 2012–17 transmission determination, March 2013
- Final decision: Electricity transmission service target performance incentive scheme (STPIS), December 2012
- Draft decision: Electricity transmission determination—ElectraNet (SA)—Regulatory control period 1 July 2013 to 30 June 2018, November 2012
- Draft decision: Electricity transmission determination—Murraylink (Vic-SA)—Regulatory control period 1 July 2013 to 30 June 2018, November 2012
- Final decision final determination on the cost thresholds associated with the Regulatory Investment Test for Transmission (RIT-T)
- Draft decision: New electricity transmission service target performance incentive scheme (STPIS) and accompanying explanatory statement, September 2012

### Electricity Distribution

- Draft decision: Proposed rewards/penalties for Victorian Distribution Businesses under the “f-factor scheme”, June 2013
- Decision: Approve electricity tariffs for non-Victorian distribution network service providers, Ausgrid (NSW), Ergon Energy (Qld) and SA Power Networks (SA), June 2013
- Decision: Approve proposed 2013–14 network tariffs for non-Victorian distribution network service providers: ActewAGL (ACT), Aurora Energy (Tas), Endeavour Energy (NSW), Essential Energy (NSW) and Energex (Qld), May 2013
- Decision: Approve 2011–12 Demand management incentive allowance expenditure for ActewAGL (ACT), Ausgrid (NSW), Endeavour Energy (NSW), Essential Energy (NSW) and Ergon Energy (Qld), April 2013
- Draft decision: Amendment to accounting ring-fencing guidelines applying to Aurora Energy, April 2013
- Final decision: Cost pass through framework for SP AusNet, April 2013
- Revised decision: Reject proposed increases in SP AusNet smart meter expenditures, February 2013
- Final decision: Approve ActewAGL Cost pass through application—National Energy Customer Framework—July 2012, January 2013

- Final decision: Approve ActewAGL, Energex and Ergon Energy's feed in tariff pass through applications, January 2013
- Final decision: Approve Victorian electricity network tariffs for 2013, December 2012
- Decision: Approve 2011 Demand management incentive scheme expenditure for Victorian electricity distribution network service providers; CitiPower, Jemena Electricity Networks and SP AusNet, December 2012
- Decision: Forecasts for the take-up of flexible tariffs in pricing proposals from CitiPower, Powercor, SP AusNet and United Energy (Vic) for 2013 not reasonable, November 2012
- Draft decision: Proposed charges and terms and conditions for advanced metering infrastructure (AMI) remote services (Vic), October 2012
- Decision: Approve 2013 revised Advanced Metering Infrastructure (AMI) or smart meter charges for CitiPower, Powercor, Jemena Electricity Networks, SP AusNet and United Energy, October 2012
- Decision: Approve SP AusNet's Victorian Bushfire Royal Commission cost pass through application, October 2012
- Decision: Approve SA Power Networks amended Cost allocation method, October 2012
- Decision: Preliminary view on amendments to SP AusNet AMI 2012–15 final determination in accordance with orders of the Australian Competition Tribunal, October 2012
- Decision: Vary electricity network charges and amend 2011–15 determinations for CitiPower, Powercor, Jemena Electricity Networks, SP AusNet and United Energy (Vic) according to decisions by the Australian Competition Tribunal, October 2012
- Draft decision: Proposal to apply transmission pricing (chapter 6A of the NER) to ActewAGL's dual function assets, September 2012
- Final decision: CitiPower and Powercor vegetation management opex step change—Regulatory control period 2011–15, September 2012
- Draft decision: SP AusNet's insurance pass through event, August 2012
- Draft decision: CitiPower and Powercor vegetation management opex step change—Regulatory control period 2011–15, August 2012
- Decision: Approve 2010–11 Demand management incentive allowance expenditure for ActewAGL (ACT), Ausgrid (NSW), Endeavour Energy (NSW), Essential Energy (NSW) and Ergon Energy (Qld), July 2012

### Gas distribution and transmission

- Decision: Approve 2013–14 tariff variations and cost pass through proposals for non-Victorian gas distribution network service providers, May 2013
- Final decision: Price review gas—distribution SP AusNet, Envestra and Multinet and gas transmission; APA GasNet (Vic), March 2013
- Draft decision: Not approve access arrangement proposals including network charges for Multinet Gas Pty Ltd, Envestra (Vic) Limited, Envestra (Albury) Limited Albury and SPI Networks (Gas) Pty Ltd's (SP AusNet) (distribution) and APA GasNet Australia (Operations) Pty Ltd's (transmission) 2013–17, September 2012
- Final decision: Access arrangement for the Roma to Brisbane gas transmission pipeline (Qld) for the period 1 September 2012 to 30 June 2017, August 2012
- Final decision: Exempting Meridian SeamGas Joint Venture and WestSide Corporation Limited (WestSide) from ring fencing obligations, July 2012
- Decision: Approve proposed 2012–13 tariff variations for APT Allgas (Qld) gas distribution network Dawson Valley gas transmission network, July 2012
- Decision: Approve and cost pass through proposals for gas distribution pipelines of Envestra (SA), Envestra (Qld) and APT Allgas (Qld), July 2012

## Retail Markets

- Decision: Granted WINenergy Pty Ltd electricity retailer authorisation, June 2013
- Decision: Granted Infigen Energy Holdings Pty Ltd granted electricity retailer authorisation, March 2013
- Decision: Granted ERM Power Retail Pty Ltd for gas retailer authorisation, December 2012
- Decision: Granted EDL Retail Pty Ltd for electricity retailer authorisation, August 2012
- Decision: Granted Metered Energy Holdings Pty Ltd (MEH) electricity and gas retailer authorisation, July 2012

## Telecommunications

- Final decision to make a Building Block Model record keeping and reporting rule (BBM RKR), August 2012
- Final access determination for the local bitstream access service (LBAS), October 2012
- Final determinations in relation to 13 access disputes relating to the line sharing service (LSS) and unconditional local loop service (ULLS) declared services, November 2012
- Publication of the points of interconnect (POIs) to the National Broadband Network (NBN), November 2012
- Draft decision on NBN Co's special access undertaking, April 2013
- Draft decision to vary the Facilities Access Code, May 2013
- Final access determination for declared wholesale asymmetric digital subscriber line (ADSL) service, May 2013

## Transport

### Rail

- Final Decision: Australian Rail Track Corporation's Hunter Valley Rail Network Access Undertaking—Initial Indicative Service variation, 17 October 2012
- Draft Decision: Australian Rail Track Corporation's proposed variation of the Interstate Rail Network Access Undertaking to include the Southern Sydney Freight Line, 6 February 2013
- Final Decision: Australian Rail Track Corporation's compliance with pricing principles in the Hunter Valley Rail Network Access Undertaking for 2011, 5 April 2013
- Final Decision: Australian Rail Track Corporation's proposed variation of the Interstate Access Undertaking to include the Southern Sydney Freight Line, 10 April 2013

### Wheat export marketing arrangements

- Viterra Operations Limited—Port Terminal Services Access Undertaking—Decision to withdraw the ACCC's Auction Objection Notice, 5 September 2012
- Co-operative Bulk Handling Limited Port Terminal Services Access Undertaking—Decision to consent to variation, 5 December 2012

### Airports/Aviation

- Airservices Australia price notification—Decision not to object, 14 June 2013

## Water

There are no draft or final decisions in relation to regulated industries under the Water Act and Commonwealth Water Rules to report in 2012-13.

# Appendix 12: Major regulatory reports and reviews in 2012–13

## AER

### Reports

- Better Regulation update newsletter, March, April, May and June 2013
- Better Regulation policy note, May 2013
- Electricity price above \$5000/MWh report—6 March 2013, May 2013
- Quarterly Compliance Report: National electricity and gas laws—January—March 2013, April 2013
- Electricity price above \$5000/MWh report—29 January 2013, April 2013
- Retail energy market update—Performance report October–December 2012, March 2013
- Retail energy market update—Compliance report July–December 2012, March 2013
- Retail energy market update—consumer issues July–December 2012, March 2013
- Performance Report—Victorian gas distribution business 2009–11, March 2013
- Quarterly Compliance Report: National electricity and gas laws—October–December 2013, February 2013
- Better Regulation update newsletter and calendar, February 2013
- State of the Energy Market report, December 2012
- Report on the impact of congestion on bidding and inter-regional trade in the National Energy Market, December 2012
- Significant gas price report—August 2012, November 2012
- Electricity price above \$5000/MWh report—29 November 2012, November 2012
- Significant gas price report—July 2012, October 2012
- Customer consultation paper—Victorian gas access arrangement review, October 2012
- Significant gas price report—June 2012, August 2012
- Quarterly Compliance Report: National electricity and gas laws—April–June 2012, July 2012

### Guidelines and guideline consultation

- Consultation: Draft Regulatory Investment Test—Distribution and application guidelines, June 2013
- Consultation: Better Regulation Program—Rate of return guideline, May 2013
- Consultation: Better Regulation Program—Stakeholder forum expenditure incentives and expenditure forecast assessments guidelines, April 2013
- Consultation: Better Regulation Program—Shared asset guideline, April 2013
- Consultation: Better Regulation Program—Stakeholder forum Power of choice, April 2013
- Consultation: Better Regulation Program—Stakeholder forum Confidentiality guideline, April 2013
- Consultation: Better Regulation Program—Demand management and embedded generation connection incentive scheme (DMEGCIS) information paper, March 2013

- Consultation: Better Regulation Program—Expenditure incentives guideline issues paper, March 2013
- Consultation: Better Regulation Program—Confidentiality guideline issues paper, March 2013
- Consultation: Formulae to apply to direct control services in NSW and the ACT, February 2013
- Consultation: Expressions of interest called for Consumer Challenge Panel, February 2013
- Consultation: Draft network service provider registration exemption guideline, January 2013
- Consultation: Expressions of interest called for Consumer Reference Group, January 2013
- Consultation: Regulatory Investment Test for Distribution (RIT-D) and application guidelines Issues paper, January 2013
- Guideline: Gas STTM significant price variations reporting triggers, December 2013
- Consultation: Better Regulation Program—Rate of Return guidelines issues paper, December 2012
- Consultation: Better Regulation Program—Expenditure forecast assessment guidelines issues paper, December 2012
- Consultation: Better Regulation Program—Stakeholder Forum, December 2012
- Consultation: Better Regulation Program—Issues paper, December 2012
- Consultation: Better Regulation Program—Program launch, November 2012
- Consultation: Draft exempt selling guideline, November 2012
- Consultation: Short term trading market Significant price variation reporting triggers—Issues paper, November 2012
- Compliance Bulletin: Price taker bids and changes in distribution network linepack, October 2012
- Consultation: Electricity distribution ring-fencing guidelines—Position paper, September 2012

## Telecommunications

- *Telstra's compliance with the retail price control arrangements 2011-12*, February 2013
- *Telecommunications competitive safeguards for 2011-12*, February 2013
- *Changes in the prices paid for telecommunications services in Australia for 2011-12*, February 2013
- The ACCC report to the Minister on breaches of the SSU, June 2013

## Reports

### Guidelines

- Guide to inquiries into disputes about Australia Post's bulk interconnection services, December 2012

## Fuel

- *Monitoring of the Australian petroleum industry*—Report of the ACCC into the prices, costs and profits of unleaded petrol in Australia, December 2012

- *Monitoring of the Australian petroleum industry—Summary, December 2012*

## Transport

- *Container stevedoring monitoring report no 14, November 2012*
- *Airport Monitoring Report 2011–12, April 2013*

## Productivity Commission Review of the National Access Regime

- Submission: Productivity Commission Review of the National Access Regime: ACCC Submission to Issues Paper, 8 February 2013
- Supplementary submission: ACCC response to comments by the Australian Rail Track Corporation, 17 April 2013

## Postal Services

- *Assessing cross-subsidy in Australia Post 2011–12, April 2013*

## Water

- *ACCC Water Monitoring Report 2011–12, March 2013*

# Appendix 13: Mergers in 2012–13 —major assessments

All public merger decisions for 2012–13 were published on the ACCC website at [www.accc.gov.au/mergers](http://www.accc.gov.au/mergers). Notable examples are listed below.

## Merger reviews publicly opposed

- Woolworths Limited and Lowe's Companies Inc (Joint Venture)—proposed acquisition of G Gay & Co hardware stores
- Seven Group Holdings Limited—proposed acquisition of Consolidated Media Holdings Limited
- Sonic Healthcare Limited—proposed acquisition of pathology businesses of Healthscope Limited in Queensland and Western Australia
- Carsales.com Limited—proposed acquisition of interests associated with the Trading Post brand
- Woolworths Limited—proposed acquisition of supermarket site at Glenmore Ridge Village Centre
- H J Heinz Company Australia Limited—proposed acquisition of Rafferty's Garden Pty Ltd

## Merger reviews resolved by court enforceable undertakings

- APA Group—proposed acquisition of Hastings Diversified Utilities Fund
- Nestle—proposed acquisition of Pfizer Nutrition—Pfizer Inc

## Merger reviews not opposed

- ALH and Laundry Hotel Group—proposed acquisition of Caringbah Inn
- News Corporation—proposed acquisition of Consolidated Media Holdings Limited
- Commonwealth Bank of Australia—proposed acquisition of remaining issued capital of Aussie Home Loans
- Austral Masonry Holdings Pty Ltd—proposed acquisition of Boral Ltd's masonry business in New South Wales
- Ruralco Holdings Limited—proposed acquisition of Elders Rural Services Limited
- Virgin Australia Holdings Limited and Tiger Airways—proposed joint venture to operate Tiger Airways Australia
- Virgin Australia Holdings Limited—proposed acquisition of Skywest Airlines (Australia) Pty Ltd

# Appendix 14: Significant authorisation and notification decisions in 2012–13

## Authorisations

In 2012–13 the ACCC issued 32 final authorisation decisions. Copies of all authorisation decisions for 2012–13 were published on the ACCC website at [www.accc.gov.au/publicregister](http://www.accc.gov.au/publicregister). Notable examples are listed below.

### Authorisations granted

Australian Bankers' Association Inc  
Australian Dental Association Inc  
Australian Medical Association Limited  
Australian Tyre Industry Council  
Australian Tyre Industry Council  
Qantas Airways Limited & Jetstar Airways Pty Ltd  
NBN Co Limited

### Authorisation denied

Narta International Pty Ltd

## Collective bargaining notifications

In addition to seeking authorisation for collective bargaining arrangements, parties are able to lodge a collective bargaining notification. In 2012–13, six matters involving 78 collective bargaining notifications were lodged and the ACCC finalised its assessment of all of them. Copies of all collective bargaining notifications and ACCC decisions are available from the ACCC's website at [www.accc.gov.au/publicregister](http://www.accc.gov.au/publicregister). Notable examples are listed below.

### Notification allowed to stand

Manning Valley dairy farmers

## Exclusive dealing notifications

In 2012–13, the ACCC assessed more than 750 exclusive dealing notifications involving 410 separate matters. Copies of all notifications are available from the ACCC's website at [www.accc.gov.au/publicregister](http://www.accc.gov.au/publicregister). Notable examples are listed below.

### Notifications allowed to stand

Queensland Rugby Football League Limited  
First Class Taxis Pty Ltd  
Jireh International Pty Ltd  
Tabcorp Wagering Manager (Vic) Pty Ltd & TAB Ltd

Tabcorp

Brumby's Bakeries Systems Pty Ltd

Hungry Jack's Australia Pty Ltd

McDonald's Australia Limited & McDonald's Australia Holdings Ltd

Port of Townsville Limited & Far North Queensland Ports Corporation Limited

## Appendix 15: Correction of material errors in previous annual reports

No material errors were identified.

# Glossary and abbreviations

AAT	Administrative Appeals Tribunal
ABA	Australian Bulk Alliance
ACCC	Australian Competition & Consumer Commission
ACL	Australian Consumer Law
ACMA	Australian Communications and Media Authority
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
AGS	Australian Government Solicitor
APS	Australian Public Service
ARFF	aviation rescue, fire fighting
ARTC	Australian Rail Track Corporation
ASIC	Australian Securities and Investments Commission
AUSTRAC	Australian Transaction Reports and Analysis Centre
AWG	Australian Writers' Guild Limited
BBM	Building Block Model
CA	Communications Alliance
CCA	<i>Competition and Consumer Act 2010</i>
CCEU	Competition and Consumer Economic Unit
CCG	Customer Consultative Group
CEO	Chief Executive Officer
COAG	Council of Australian Governments
cpl	cents per litre
CPM	carbon price mechanism
DBCDE	Department of Broadband, Communications and the Digital Economy
DEHP	diethylhexyl phthalate
DNISP	distribution network service providers
DSP	Demand Side Participation
DTCS	Domestic Transmission Capacity Service
EDRMS	Electronic Document Record Management System
EL	Executive Level
ESCV	Essential Services Commission of Victoria
ESV	Energy Safe Victoria
FAD	final access determinations
FCC	Franchising Consultative Committee
FIT	feed-in tariff

FMA Act	<i>Financial Management and Accountability Act 1997</i>
FOI	Freedom of Information
FTTH	fibre-to-the-home
HFC	hybrid fibre coaxial
ICPHSO	International Consumer Product Health and Safety Organization
ICPEN	Consumer Protection and Enforcement Network
IMTS	Information Management and Technology Services Branch
IPS	Information Publication Scheme
IPTV	internet protocol television
LBAS	local bitstream access service
LCS	Local Carriage Service
LPG	liquefied petroleum gas
LSS	line-sharing service
LTPA	long-term pricing agreement
MDB	Murray-Darling Basin
MDBA	Murray-Darling Basin Authority
MIP	market impact parameter
Mogas	motor gasoline
MPS	Mobile Premium Services
MTAS	Mobile Terminating Access Service
NBN	National Broadband Network
NBN Co	NBN Co Limited
NEM	National Electricity Market
NER	National Electricity Rules
NGR	National Gas Rules
NPP	new policy proposal
NSP	Network Service Plan
OECD	Economic Co-operation and Development
OSP	Operational Separation Plan
PBS	portfolio budget statements
PPD	Paraphenylene diamine
PSCC	Product Safety Consultative Committee
PSM	Branch People Services and Management Branch
PSTN	Public Switched Telephone Network
PSTN OA	public switched telephone network originating access
PSTN TA	public switched telephone network terminating access
RBP	Roma to Brisbane transmission pipeline

RDB	Regulatory Development Branch
RFI	request for information
RoLR	Retailer of Last Resort
RTC	Reconnecting the customer
SAU	Special Access Undertaking
Section 87B	court enforceable undertaking made under section 87B of the <i>Competition and Consumer Act 2010</i>
SES	Senior Executive Service
SSU	Structural Separation Undertaking
STPIS	service target performance incentive scheme
STTM	Short Term Trading Market
TCP	Telecommunications Consumer Protection
TGP	terminal gate price
TIO	Telecommunications Industry Ombudsman
TN	terminal navigation
TNSP	transmission network service providers
TPA	<i>Trade Practices Act 1974</i>
TSLRIC+	total service long-run incremental cost plus an allocation of indirect overhead costs
ULLS	unconditioned local loop service
VOIP	Voice over Internet Protocol
WACC	weighted average cost of capital
WCIR	Water Charge (Infrastructure) Rules 2010
WCPMIR	Water Charge (Planning and Management Information) Rules 2010
WCTFR	Water Charge (Termination Fees) Rules 2009
WLR	wholesale line rental
WMR	Water Market Rules 2009

# Compliance index

## List of requirements

The following list shows this report's compliance with the requirements for annual reports for departments, executive agencies and FMA Act bodies.

Part of Report	Description	Requirement	Page
	Letters of transmittal	Mandatory	iii, v
	Table of contents	Mandatory	vi–vii
	Index	Mandatory	363
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	Contact officer(s)	Mandatory	ii, 22–23
	Internet home page address and internet address for report	Mandatory	ii
<b>Review by Secretary</b>			
	Review by departmental secretary (i.e. ACCC Chairman)	Mandatory	3–9
	Summary of significant issues and developments	Suggested	3–9
	Overview of department's performance and financial results	Suggested	10–13
	Outlook for following year	Suggested	9
	Significant issues and developments—portfolio	Portfolio departments—suggested	Not applicable
<b>Departmental Overview</b>			
	Role and functions	Mandatory	16
	Organisational structure	Mandatory	20–21
	Outcome and program structure	Mandatory	19
	Where outcome and program structures differ from PB Statements/PAES or other portfolio statements accompanying any other additional appropriation bills (other portfolio statements), details of variation and reasons for change	Mandatory	No variation
	Portfolio structure	Portfolio departments—mandatory	Not applicable
<b>Report on Performance</b>			
	Review of performance during the year in relation to programs and contribution to outcomes	Mandatory	26–194

Actual performance in relation to deliverables and KPIs set out in PB Statements/PAES or other portfolio statements	Mandatory	57-9, 107-9, 169-173, 194
Where performance targets differ from the PB Statements/PAES, details of both former and new targets, and reasons for the change	Mandatory	No variation
Narrative discussion and analysis of performance	Mandatory	26-194
Trend information	Mandatory	10-13, 41, 94, 151, 178-9, 181, 214, 230
Significant changes in nature of principal functions/services	Suggested	Not applicable
Performance of purchaser/provider arrangements	If applicable, suggested	Not applicable
Factors, events or trends influencing departmental performance	Suggested	3-9, 26-194
Contribution of risk management in achieving objectives	Suggested	207
Social inclusion outcomes	If applicable, mandatory	Not applicable
Performance against service charter customer service standards, complaints data, and the department's response to complaints	If applicable, mandatory	178-181, 210
Discussion and analysis of the department's financial performance	Mandatory	9-13
Discussion of any significant changes from the prior year, from budget or anticipated to have a significant impact on future operations	Mandatory	Not applicable
Agency resource statement and summary resource tables by outcomes	Mandatory	308-9

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Management and Accountability

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Corporate Governance

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Agency heads are required to certify that their agency comply with the Commonwealth Fraud Control Guidelines	Mandatory	iii, v, 208
Statement of the main corporate governance practices in place	Mandatory	206-210
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	Approach adopted to identifying areas of significant financial or operational risk	Suggested	206-211
	Policy and practices on the establishment and maintenance of appropriate ethical standards	Suggested	208-9
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External Scrutiny			
	Significant developments in external scrutiny	Mandatory	209-10
	Judicial decisions and decisions of administrative tribunals	Mandatory	209-10
	Reports by the Auditor-General, a Parliamentary Committee or the Commonwealth Ombudsman	Mandatory	209-10
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Management of Human Resources			
	Assessment of effectiveness in managing and developing human resources to achieve departmental objectives	Mandatory	211-225
	Workforce planning, staff turnover and retention	Suggested	214-17, 310-11
	Impact and features of enterprise or collective agreements, individual flexibility arrangements (IFAs), determinations, common law contracts and AWAs	Suggested	211-12, 217-19
	Training and development undertaken and its impact	Suggested	212-14
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	Productivity gains	Suggested	215-21
	Statistics on staffing	Mandatory	310-11
	Enterprise or collective agreements, IFAs, determinations, common law contracts and AWAs	Mandatory	217-19
	Performance pay	Mandatory	219
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Assets management	Assessment of effectiveness of assets management	If applicable, mandatory	230-32
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Purchasing	Assessment of purchasing against core policies and principles	Mandatory	231-32
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Consultants	The annual report must include a summary statement detailing the number of new consultancy services contracts let during the year; the total actual expenditure on all new consultancy contracts let during the year (inclusive of GST); the number of ongoing consultancy contracts that were active in the reporting year; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST). The annual report must include a statement noting that information on contracts and consultancies is available through the AusTender website.	Mandatory	231
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	Compliance with the agency's obligations under the <i>Carer Recognition Act 2010</i>	If applicable, mandatory	Not applicable
	Grant programs	Mandatory	232
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## Competition and Consumer Act requirements

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