



PART 6

APPENDIXES

Appendix 1: Agency and outcome resource statements

Table A1.1: Agency resource statement, 2011–12

		Actual available appropriations for 2011–12 (a) \$'000	Payments made in 2011–12 (b) \$'000	Balance remaining (a–b) \$'000
Ordinary annual services				
Departmental				
Prior year departmental carried forward		19 849	1204	18 645
Departmental appropriation		154 283	154 283	0
Receipts from other sources (s31)		5104	5104	0
Total ordinary annual services ⁽¹⁾	A	179 236	160 591	18 645
Other services				
Departmental non–operating				
Prior year non–operating carried forward		24 819	12 948	11 871
Equity injections		55	55	0
Total other services	B	24 874	13 003	11 871
Special accounts				
Opening balance		54	0	54
Non–appropriation receipts to special accounts		1	1	0
Total special account	C	55	1	54
Total net resourcing for ACCC (A+B+C)		204 165	173 595	30 570

¹ Departmental capital budget of \$2.508 million included in ordinary annual services

Table A1.2: Budget expenses and resources for Outcome 1, 2011–12

	Budget Expenses 2011–12 \$'000 (a)	Actual Expenses 2011–12 \$'000 (b)	Variation 2011–12 \$'000 (a–b)
Program 1.1: Other Departmental			
Departmental expenses			
Ordinary Annual Services (Appropriation Bill No. 1)	153 783	153 783	0
Revenues from independent sources (section 31)	500	6 618	6 118
Expenses not requiring Appropriation in the Budget year— previous years' outputs	500	500	0
Total Expenses for Outcome 1	154 783	160 901	6 118

Table A1.3: Average staffing level

	2011–12	2010–11
Average staffing level (number)	807	746

Appendix 2: 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 (as at 30 June 2012)

Actual Classification	Adelaide	Brisbane	Canberra	Darwin	Hobart	Melbourne	Perth	Sydney	Townsville	TOTAL
SES 3			3							3
SES 2			3			3		2		8
SES 1		2	14			13	1	3		33
EL2	6	5	46	1	2	68	2	19		149
EL1	11	11	62	1		91	4	25		205
APS6	12	9	53	4	1	71	9	19	1	179
APS5	6	7	50	1	2	44	2	21		133
APS4	2	3	32			33	1	7	1	79
APS3	1	3	24	1		7	4	3		43
APS2			4			1		2	1	8
APS1						4				4
GRAD		1	9	1		14	1	6		32
TOTAL	38	41	300	9	5	349	24	107	3	876

Table A2.2: APS staff employed by gender and location (as at 30 June 2012)

	Adelaide	Brisbane	Canberra	Darwin	Hobart	Melbourne	Perth	Sydney	Townsville	TOTAL
ONGOING										
Female full-time	12	19	123	5		145	9	44	1	358
Male full-time	23	13	114	3	4	162	11	44	1	375
Female part-time	2	7	27		1	23		12	1	73
Male part-time		1	5			8		2		16
NON-ONGOING										
Female full-time	1		10	1		2	2	4		20
Male full-time			9			1		1		11
Female part-time		1	10			1	2			14
Male part-time			2			7				9
TOTAL	38	41	300	9	5	349	24	107	3	876

WORKPLACE DIVERSITY

Table A2.3: Workplace diversity profile (as at 30 June 2012)

	Total staff	Female	ATSI	CLDB	PWD
Senior Executive Service and ACCC/AER members	59	21	0	3	1
Lawyer 1	13	9	0	5	0
Lawyer 2	25	15	0	4	0
EL 2	142	57	0	17	1
EL 1	194	103	0	20	3
APS 6	173	92	3	39	2
APS 5	126	73	0	25	4
APS 4	73	53	0	17	0
APS 3	38	27	0	4	2
APS 2	6	4	0	0	0
APS 1	4	1	0	1	0
GRAD	32	14	3	5	0
Total	885	469	6	140	13
Proportion of total		52.99%	0.68%	15.82%	1.47%

ATSI = people from Aboriginal or Torres Strait Islander backgrounds; CLDB = self-identified people from culturally or linguistically diverse backgrounds; PWD = people with disabilities. A staff member could be classified under one, two or all three of these headings.

Appendix 3: Work health and safety

WORK HEALTH AND SAFETY MANAGEMENT SYSTEM

On 1 January 2012, the *Work Health and Safety Act 2011* and the Work Health and Safety Regulations 2011 took effect and replaced the *Occupational Health and Safety Act 1991*, the Occupational Health and Safety (Safety Standards) Regulations 1994 and the Occupational Health and Safety (Safety Arrangements) Regulations 1991.

The ACCC has developed a Work Health and Safety Management System to meet the requirements of the new Act. This system encompasses the policies and instruments for the ACCC's work health and safety consultation process, the terms of reference for the Work Health and Safety Committee, the establishment of work groups, the role and appointment of health and safety representatives; risk management, procurement requirements, training program and work health and safety policy.

HEALTH AND SAFETY ACTIVITIES

The ACCC is committed to improving workplace health and wellbeing for its workers. The ACCC is a finalist in the Comcare Work Health and Safety Awards 2012, Category 1: Best Workplace Health and Wellbeing Program. The winner of this prestigious Award will be announced in September 2012. The ACCC wellbeing program for 2011–12 included wide-ranging initiatives such as:

Staff Surveys and Cultural Analysis Report Since 1995, the ACCC has undertaken biennial staff surveys to examine and benchmark organisational health issues and identify areas for improvement. The 2011–12 survey was adapted to benchmark against the APS survey and saw a 77 per cent response rate, one of the highest within the APS. The ACCC also commissioned a report to assess the organisational culture.

Organisational Wellbeing Committee Senior management lead the development of the ACCC's Health and Wellbeing Program through the Organisational Wellbeing Committee (OWC), a strategic committee chaired by the CEO. Its purpose is to advance the ACCC's capability and performance—including the promotion of organisational direction, effective leadership and effective corporate governance processes—and promotes an ethical and vibrant culture.

The OWC works to ensure a strategic and comprehensive approach to people-related issues including work/life balance, change management, ethics, bullying and harassment, communication, diversity and performance management.

ACCC Mentoring Program This program aims to provide a framework for employees to regularly meet and be guided and supported by more senior and experienced staff. Feedback from participants indicates that the ACCC's mentoring initiatives have led to improvements in individual performance, capabilities, job satisfaction, career and goal setting.

Respect Program This tailored program employs strategies to ensure that employees are aware of what is acceptable workplace behaviour and promotes a safe, positive and harmonious work environment that is free from bullying and harassment. The ACCC Respect Program was highlighted in the annual Australian Public Service Commission State of the Service Report as a key example of a Public Service strategy to combat harassment or bullying.

Workplace Contact Officer Network As part of the ACCC's commitment to eradicating bullying and harassment within the workplace, Workplace Contact Officers have been appointed throughout the ACCC.

Work Health and Safety Committee Chaired by senior management, this committee aims to enforce and monitor the ACCC's compliance with Work Health and Safety legislation.

Employee Assistance Program The ACCC contracted a leading employee counselling organisation to provide a comprehensive range of counselling services.

Mental Health Week and R U OK Day In 2011–12, the ACCC implemented a comprehensive program for staff as part of these national mental health initiatives.

Healthy Lifestyle Reimbursement A new reimbursement scheme to promote healthy lifestyle choices. In 2011–12, over 90 per cent of employees made a claim with the average claim being \$250 out of a maximum \$300.

Influenza Vaccination Program The 2011–12 program was successful with 43 per cent of the staff taking part in the initiative.

HEALTH AND SAFETY OUTCOMES

Comcare premiums

The ACCC's Comcare premium for 2011–12 was set at 0.54 per cent of total salaries, compared with the all-agencies combined rate of 1.41 per cent. The premium for 2012–13 has been set at 0.72 per cent of total salaries, significantly below the all-agencies combined rate of 1.77 per cent.

Compensation claims

Five new compensation claims were made to Comcare from the ACCC during 2011–12. The ACCC has seven open compensation claims.

Non-compensable cases

The ACCC provides ongoing support for employees suffering from physical and psychological injuries or illnesses, with assistance to 10 employees with non-compensable physical and psychological injuries or illnesses during 2011–12.

Incident statistics

Twenty-two incidents were reported to the ACCC in 2011–12. One required Comcare's involvement, as the employee was injured through a slip/trip incident. The employee was absent from work for a short period before returning to full duties. The remaining incidents did not require Comcare's involvement, as they did not involve employees sustaining serious personal injuries arising from ACCC activities or from work performed by an employee in connection with those activities.

Investigations, directions and notices

The ACCC received no notices under the Work Health and Safety Act, and did not conduct any investigations during 2011–12.

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 Publication 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 \$11 900, GST inclusive, that the ACCC made to such agencies in 2011–12. Payments over this threshold are listed in Table A5.1 below.

During 2011–12, the ACCC conducted a major advertising campaign to increase consumer awareness of the consumer guarantee provisions. Further information on this advertising campaign is available at www.accc.gov.au and in the reports on Australian Government advertising prepared by the Department of Finance and Deregulation. Those reports are available at <http://www.finance.gov.au/advertising/index.html>.

Table A5.1: Advertising and market research of more than \$11 900 2011–12

Date	Description of advertising and market research services	Advertising and market research firm	Amount \$
25/02/2012	Senior Executive recruitment advertising	Adcorp Australia Pty Ltd	25 069
25/02/2012	Senior Executive recruitment advertising	Ian Hansen & Associates	25 617
1/2/2012 to 30/06/2012	Consumer awareness of consumer guarantee provisions under the Australian Consumer Law Act campaign	Universal McCann	932 853
13/09/2011 to 31/03/2012	Market research into consumer and business awareness of consumer guarantees	Colmar Brunton Social Research Pty Limited	30 030
15/11/2012 to 30/01/2012	Engagement of external advertising agency for consumer guarantees education and awareness campaign	Venus Advertising	39 381
25/10/2011 to 30/11/2011	Provision of research services for consumer guarantees education and awareness campaign	GFK Blue Moon Research and Planning Pty Ltd	25 410
22/12/2011 to 31/01/2012	Translation and distribution of ACCC materials for consumer guarantees education and awareness campaign	LOTE MARKETING PTY LTD	18 245
18/06/2012 to 30/06/2012	Research on awareness of recalls and general product safety information online	Colmar Brunton Social Research Pty Limited	15 000
13/02/2012 to 30/06/2012	Market research to provide the ACCC guidance in its communications with consumers and businesses	ORC Aus Pty Ltd	132 075

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

The ACCC administers legislation that ensures lawful competition, consumer protection, and regulated national infrastructure markets and services through regulation. This brings greater competitiveness, which leads to a more efficient and sustainable market. The ACCC operates nine offices around Australia.

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 use
- 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
- places emphasis on electronic records and electronic working arrangements
- purchases 20 per cent of its yearly supply of paper as recycled paper
- 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.

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 uses 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

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 \$220 000 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
- 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 \$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

Competition and Consumer Act	
IVB	Industry codes of conduct—the franchising, horticulture, oil and unit pricing codes are mandatory codes prescribed under Part IVB
Australian Consumer Law—Schedule 2 to the Competition and Consumer Act	
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
- community service orders
- probation orders
- adverse publicity orders
- corrective advertising, public notices and disclosure
- penalties of up to \$1.1 million for companies and \$220 000 for individuals.

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
VIIA	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 the electricity, gas, telecommunications, and selected parts of the transport sectors and water in the Murray-Darling Basin to ensure efficiency of access to infrastructure and to monitor services and prices.

LEGISLATIVE AMENDMENTS IN 2011–12

Amendments to the Competition and Consumer Act

Clean Energy (Consequential Amendments) Act 2011—commenced 18 November 2011

Competition and Consumer Amendment Act (No. 1) 2011—commenced 6 December 2011

Competition and Consumer Legislation Amendment Act 2011—commenced 6 December 2011

Telecommunications Legislation Amendment (Universal Service Reform) Act 2012—commenced 16 April 2012

Declarations made under the Competition and Consumer Act

Price Notification Declaration (Australia Post Letter Services) (No.2) 2011—commenced 2 November 2011.

Ministerial Determination made under the *Telecommunications (Consumer Protection and Service Standards) Act 1999*

Telstra Carrier Charges—Price Control Arrangements, Notification and Disallowance Determination No. 1 of 2005 (Amendment No. 1 of 2012)

Ministerial Instruments made under the *Telecommunications Act 1997*

Telecommunications (Network Exemption—Specified Velocity Networks) Instrument 2012

Telecommunications (Network Exemption—TransACT Very Small Scale Networks) Instrument 2012

Telecommunications (Functional Separation Requirements Determination—Further Extension of Period) Instrument (No. 2) 2011

Amendments to the Competition and Consumer Regulations

Competition and Consumer Amendment Regulations 2011 (No. 1)—commenced 12 June 2011

Competition and Consumer Amendment Regulations 2011 (No. 2)—commenced 1 January 2012

Competition and Consumer Amendment Regulations 2011 (No. 3)—commenced 1 January 2012

Regulations registered under the Water Act

Water Amendment Regulation 2012 (No. 1)—commenced 11 May 2012

Declarations made under Part VIIA of the Competition and Consumer Act

Price Notification Declaration (Australia Post Letter Services) (No. 2) 2011—commenced 2 November 2011

Amendments to other laws

Australian Energy Market Amendment (National Energy Retail Law) Act 2011—commenced 14 October 2011

Broadcasting Services Amendment (Regional Commercial Radio) Act 2012—commenced 15 April 2012

Carbon Credits (Carbon Farming Initiative) Act 2011—commenced 15 September 2011

Clean Energy Act 2011—commenced 18 November 2011

Clean Energy (Consequential Amendments) Act 2011—commenced 18 November 2011

Clean Energy (Consequential Amendments) Regulation 2012—commenced 23 March 2012

Clean Energy Amendment Regulation 2012 (No. 1)—commenced 27 February 2012

Clean Energy Amendment Regulation 2012 (No. 2)—commenced 21 April 2012

National Electricity Rules

National Energy Retail Rules

National Gas Rules

National Greenhouse and Energy Reporting Amendment Regulation 2012 (No. 1)—commenced 24 April 2012

Telecommunications Legislation Amendment (Fibre Deployment) Act 2011—commenced 26 September 2011

Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Act 2011—commenced 12 April 2012

Telecommunications (Consumer Protection and Service Standards) (Characteristics for Standard Telephone Service) Regulation 2012—commenced 19 June 2012

Tobacco Plain Packaging Act 2011—commenced 1 December 2011

Trade Marks Amendment (Tobacco Plain Packaging) Act 2011—commenced 1 December 2011.

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

Northern Territory National Emergency Response Act 2007

Payment Systems (Regulation) Act 1998

Road Safety Remuneration 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

Australian Jockey Club Act 2008

Casino Control Regulation 2009

Coal Industry Act 2001

Competition Policy Reform (New South Wales) Act 1995

Competition Policy Reform (New South Wales) Regulation 2008

(Repealed by Schedule 4 to the Statute Law (Miscellaneous Provisions) Act 2011 with effect from 8 July 2011)

Competition Policy Reform (New South Wales) Savings and Transitional Regulation 1996

(Repealed by Schedule 4 to the Statute Law (Miscellaneous Provisions) Act 2011 with effect from 8 July 2011)

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

Wine Grapes Marketing Board (Reconstitution) Act 2003

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
Roxby Downs (Indenture Ratification) Act 1982

Tasmania

Competition Policy Reform (Tasmania) Act 1996
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
Water Industry Act 1994

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
North West Gas Development (Woodside) Agreement Act 1979
Owners-Drivers (Contracts and Disputes) Act 2007

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 2011–12.

Decisions on access undertaking applications and access code applications

Rail

On 6 January 2012 ARTC submitted a request to vary its 2008 Interstate Rail Access Undertaking. The ACCC made a decision to consent to the variation on 18 April 2012. During the process, the clock was stopped during consultation on the variation.

Wheat export marketing arrangements

The ACCC accepted three access undertakings under section 44ZZA of the CCA during 2011–12.

ABA formally lodged its access undertaking on 21 September 2011, and it was accepted by the ACCC on 28 September 2011. Prior to that, ABA had submitted an undertaking on 23 December 2010 which the ACCC consulted on and issued both a Draft Amendment Notice and a Draft Decision proposing to reject the undertaking on 11 August 2011. The ACCC gave ABA an Amendment Notice on 7 September 2011, after which ABA provided its 21 September 2011 undertaking. During the process the clock was stopped several times due to ACCC information requests and a request by ABA to extend the statutory timeframe.

Viterra submitted an access undertaking on 22 September 2011, which was accepted by the ACCC on 28 September 2011. Viterra had also submitted a prior undertaking on 23 December 2010 which the ACCC consulted on and issued a Draft Decision proposing to reject on 11 August 2011. During the process the clock was stopped several times due to ACCC information requests and a request by Viterra to extend the statutory timeframe.

CBH submitted an access undertaking on 20 September 2011, which the ACCC accepted on 28 September 2011. CBH had submitted a prior undertaking on 31 March 2011 which the ACCC consulted on and issued a Draft Decision proposing to reject on 23 August 2011. During the process the clock was stopped several times due to ACCC information requests.

On 11 April 2012, the ACCC issued an Auction Objection Notice in response to Viterra's 17 February 2012 Auction Variation Notice (which it was required to submit as per its 2011 Undertaking).

On 9 May 2012, the ACCC made a decision consenting to variations to Viterra's 2011 Undertaking, which Viterra had requested on 20 April 2012.

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

Nil decisions in 2011–12.

NOTICES UNDER SECTIONS 155 AND 155A

During 2011–12 the ACCC issued 175 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 2011–12.

General description of matters for which notices were given

During 2011–12 the ACCC issued 175 notices under section 155, as follows.

Notices issued under the *Trade Practices Act 1974*

- no notices under section 155(1)(a) and (b) (requiring the addressee to furnish information in writing and to produce documents)
- one notice under section 155(1)(b) (requiring the addressee to produce documents)
- one notice under section 155(1)(c) (requiring the addressee to appear in person and give evidence).

Notices issued under the *Competition and Consumer Act 2010*

- 64 notices under section 155(1)(a) and (b) (requiring the addressee to furnish information in writing and to produce documents)
- three notices under section 155(1)(a) (requiring the addressee to furnish information)
- 13 notices under section 155(1)(b) (requiring the addressee to produce documents)
- 34 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*

- 38 notices under section 155(1)(a) and (b) (requiring the addressee to furnish information in writing and to produce documents)
- seven notices under section 155(1)(b) (requiring the addressee to produce documents)
- 14 notices under section 155(1)(c) (requiring the addressee to appear in person and give evidence).

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*.

Challenges to the validity of notices

AGL Energy Limited v Samuel & ACCC

AGL Energy Limited v Samuel & ACCC

Commenced: 9 December 2010

Federal Court, Adelaide

On 9 December 2010, AGL Energy Limited commenced proceedings seeking to set aside a section 155(1)(a) and (b) notice issued to AGL by the Chairman of the ACCC.

On 23 December 2011 these proceedings were discontinued by consent.

NOTICES ISSUED UNDER SECTION 155AAA OF THE TRADE PRACTICES ACT

No notices were issued under section 155AAA of the Trade Practices Act.

SUBSTANTIATION NOTICES ISSUED

- five 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

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

SEARCH WARRANTS ISSUED OR SIGNED

No search warrants were issued by a judge under section 135Z or signed by a judge under section 136. No search warrants were issued by a magistrate under section 154X or signed by a magistrate under section 154Y.

There were no challenges to the validity of search warrants.

COMPLAINTS RECEIVED BY THE COMMISSION

Details on the number of complaints received by the ACCC in 2011–12 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 134–157.

ENTRY TO PREMISES

There were no entries onto premises under section 133B or 133C, Division 6 of Part XI or Part XII.

INTERVENTION IN PROCEEDINGS

The ACCC did not intervene in any proceedings in 2011–12.

Appendix 9: Undertakings accepted and infringement notices paid in 2011–12

GOAL 1: PROMOTE VIGOROUS LAWFUL COMPETITION AND INFORMED MARKETS

Competition and Consumer Act section 87B undertakings

1. Aqua Depot Imports, 28 July 2011
2. Edwards Essences Pty Ltd, 22 February 2012
3. Paul Maloney Fashion Agency Pty Ltd, 25 January 2012
4. Under the Wing Pty Ltd, 25 January 2012
5. Asahi Holdings (Australia) Pty Ltd, 11 August 2011
6. FOXTEL, 9 April 2012
7. Transit Systems Pty Ltd, 1 December 2011
8. Telstra Corporation Limited and NBN Corporation Limited, 27 February 2012

GOAL 2: ENCOURAGE FAIR TRADING, PROTECTION OF CONSUMERS AND PRODUCT SAFETY

Competition and Consumer Act section 87B undertakings

1. Advanced Lifestyle International Retail Pty Ltd, 1 September 2011
2. Aldi Foods Pty Ltd, 28 July 2011.
4. Austar Entertainment Pty Ltd, 2 August 2011
5. Australian Workplace Services Pty Ltd, 10 January 2012
6. Furniture Galore Pty Ltd, 10 January 2012
7. Ms Lynn Marie Laws, 11 August 2011
8. Lenan Corporation Pty Ltd, 30 November 2011
9. Noonkanbah Enterprise Management Company Pty Ltd, 13 March 2012
10. Mr John Gerard O'Halloran, 10 January 2012
11. Privity Pty Ltd t/as Haircare Australia, 23 August 2011
12. Spring Gully Foods Pty Ltd, 28 July 2011
13. Tank Broker Pty Ltd, 23 August 2011
14. True Value Solar Pty Ltd, 3 November 2011
15. TWM Imports Pty Ltd, 22 May 2012

Infringement notices paid

1. Advanced Lifestyle International Retail Pty Ltd
2. Advanced Lifestyle International Retail Pty Ltd
3. Advanced Lifestyle International Retail Pty Ltd
4. Austech Solar Pty Ltd
5. Citymove Pty Ltd
6. Club Trading & Distribution Pty Ltd
7. FOXTEL Management Pty Ltd
8. FOXTEL Management Pty Ltd
9. FOXTEL Management Pty Ltd
10. FOXTEL Management Pty Ltd
11. FOXTEL Management Pty Ltd
12. FOXTEL Management Pty Ltd
13. FOXTEL Management Pty Ltd
14. Furniture Galore Pty Ltd
15. Furniture Galore Pty Ltd
16. Furniture Galore Pty Ltd
17. Gold Coast Wool Pty Ltd
18. Greenthumbs Environmental Services Pty Ltd
19. Juicy Love Pty Ltd
20. Juicy Love Pty Ltd
21. Juicy Love Pty Ltd
22. Juicy Love Pty Ltd
23. Tank Broker Pty Ltd
24. Tank Broker Pty Ltd
25. Tank Broker Pty Ltd
26. The Big Olive Company Pty Ltd
27. The Big Olive Company Pty Ltd
28. TPG Internet Pty Ltd
29. TPG Internet Pty Ltd
30. True Value Solar Pty Ltd
31. True Value Solar Pty Ltd
32. TWM Imports Pty Ltd
33. TWM Imports Pty Ltd
34. TWM Imports Pty Ltd

GOAL 3: REGULATE NATIONAL INFRASTRUCTURE AND OTHER MARKETS WHERE THERE IS LIMITED COMPETITION

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.

Telecommunications Act section 577A undertaking

Structural Separation Undertaking, Telstra Corporation Limited, 27 February 2012.

AER

Epic Energy, issued 1 June 2012 for data failures on the Moomba to Adelaide gas pipeline.
Paid 18 June 2012.

Appendix 10: Litigation matters, review proceedings and tribunal proceedings in 2011–12

ACCC

Goal 1: Promote vigorous lawful competition and informed markets

Litigation concluded in 2011–12

Eternal Beauty Products Pty Ltd & Anor
Commenced 30 January 2012
Concluded 31 May 2012
Federal Court Melbourne

Korean Air Lines Co Ltd
Commenced 5 March 2010
Concluded 18 October 2011
Federal Court Sydney

Link Solutions Pty Ltd & Ors
Commenced 17 September 2008
Concluded 5 April 2012
Federal Court Sydney

Malaysian Airline System Berhad & Anor
Commenced 9 April 2010
Concluded 14 June 2012
Federal Court Sydney

TF Woollam & Son Pty Ltd & Ors
Commenced 18 September 2009
Concluded 21 October 2011
Federal Court Brisbane

Ticketek Pty Ltd
Commenced 6 July 2011
Concluded: 22 December 2011
Federal Court Sydney

Carmichael Builders Pty Ltd (appeal)
Commenced 11 November 2011
Concluded following withdrawal from
Carmichael Builders on 24 May 2012
Federal Court Brisbane

Metcash Trading Limited
Commenced 8 December 2010
Concluded 25 August 2011
Federal Court Sydney

Metcash Trading Limited (appeal)
Commenced 9 September 2011
Concluded 30 November 2011
Full Federal Court Sydney

Litigation continuing at the end of 2011–12

Air New Zealand Ltd
Commenced 12 May 2010
Federal Court Sydney

ANZ Banking Corporation Ltd
Commenced 25 July 2007
Federal Court Brisbane

Cathay Pacific Airways Ltd
Commenced 30 April 2009
Federal Court Sydney

Cement Australia
Commenced 12 September 2008
Federal Court Brisbane

Emirates
Commenced 18 August 2009
Federal Court Sydney

Flight Centre Ltd
Commenced 9 March 2012
Federal Court Brisbane

P.T. Garuda Indonesia Ltd
Commenced 2 September 2009
Federal Court Sydney

P.T. Garuda Indonesia Ltd
Commenced 9 June 2010
High Court of Australia

Prysmian Cavi e Sistemi
Commenced 23 September 2009
Federal Court Adelaide

Singapore Airlines Cargo Pty Ltd
Commenced 22 December 2008
Federal Court Sydney

Thai Airways International PCL
Commenced 28 October 2009
Federal Court Sydney

Football Queensland Limited
Commenced 5 January 2012
Australian Competition Tribunal

Co-Operative Bulk Handling Limited
Commenced 19 July 2011
Australian Competition Tribunal

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

Litigation concluded in 2011–12

AI Constructions (ACT) Pty Ltd
Commenced 8 June 2011
Concluded 25 July 2011
Federal Court Canberra

Allphones (contempt)
Commenced 17 August 2009
Concluded 19 July 2011
Federal Court Sydney

Apple Pty Ltd and Apple Inc
Commenced 28 March 2012
Concluded 21 June 2012
Federal Court Melbourne

European City Guide SL
Commenced 18 August 2009
Concluded 27 July 2011
Federal Court Sydney

Harvey Norman Holdings Ltd
Commenced 25 November 2011
Concluded 8 December 2011
Federal Court Brisbane

Halkalia Pty Ltd
Commenced 6 May 2011
Concluded 28 May 2012
Federal Court Melbourne

Hooker Meats Pty Ltd
Commenced 18 August 2011
Concluded 23 February 2012
Federal Court Melbourne

L Jutsen & Ors (TVI Express)
Commenced 14 May 2010
Concluded 18 May 2012
Federal Court Sydney

Pippa Sampson
Commenced 6 October 2010
Concluded 17 October 2011
Federal Court Melbourne

Singtel Optus
Commenced 6 September 2010
Concluded 7 July 2011
Federal Court Sydney

Sontax Australia Pty Ltd
Commenced 17 June 2011
Concluded 21 October 2011
Federal Court Melbourne

SMS Global Pty Ltd
Commenced 22 December 2010
Concluded 3 August 2011
Federal Court Melbourne

Trade Quip Pty Ltd
Commenced 22 July 2011
Concluded 29 February 2012
Federal Court Melbourne

Trading Post and Google Inc
Commenced 11 July 2007
Concluded 22 September 2011
Federal Court Sydney

Willesee Healthcare Pty Ltd & Ors
Commenced 8 October 2010
Concluded 4 July 2011
Federal Court Melbourne

Google Inc (appeal)
Commenced 12 October 2011
Concluded 3 April 2012
Full Federal Court Sydney

Jutsen (contempt)
Commenced 7 July 2010
Concluded 5 June 2012
Federal Court Sydney

MSY Technology Pty Ltd & Ors (appeal)
Commenced 5 May 2011
Concluded 19 April 2012
Federal Court Sydney

Singtel Optus Pty Ltd (appeal)
Commenced 28 July 2011
Concluded 7 March 2012
Federal Court Sydney

SMS Global Pty Ltd (contempt)
Commenced 8 September 2011
Concluded 9 January 2012
Federal Court Melbourne

TPG Internet Pty Ltd
Commenced 16 December 2010
Concluded 19 June 2012
Federal Court Melbourne

Litigation continuing at the end of 2011–12

ACN 135 183 372 (Formerly known as Energy
Watch Pty Ltd & Anor)
Commenced 26 August 2011
Federal Court Melbourne

Adepto Publications Pty Ltd
Commenced 30 September 2010
Federal Court Sydney

Advanced Medical Institute Pty Ltd & Ors
Commenced 21 December 2010
Federal Court Melbourne

AGL Sales Pty Ltd & Ors
Commenced 26 March 2012
Federal Court Melbourne

Air Asia Berhad
Commenced 19 January 2012
Federal Court Melbourne

BAJV Pty Ltd t/as Europcar
Commenced 10 November 2011
Federal Court Hobart

Breast Check Pty Ltd
Commenced 21 December 2011
Federal Court Perth

Rosemary Bruhn (Rosie's Free Range Eggs)
Commenced 2 March 2012
Federal Court Adelaide

Cotton On Kids Pty Ltd and Cotton On Clothing
Pty Ltd
Commenced 5 October 2011
Federal Court Melbourne

Dateline Imports Pty Ltd
Commenced 25 June 2012
Federal Court Brisbane

EDirect Pty Ltd (2010)
Commenced 18 August 2010
Federal Court Darwin

EDirect Pty Ltd (2011)
Commenced 30 March 2011
Federal Court Darwin

Trade Quip Pty Ltd (contempt)
Commenced:
Concluded 22 July 2011
Federal Court Melbourne

Excite Mobile Pty Ltd
Commenced 7 December 2011
Federal Court Adelaide

Exclusive Media & Publishing Pty Ltd & Ors
Commenced 21 September 2011
Federal Court Brisbane

Kingsland Meatworks & Cellars Pty Ltd & Ors
Commenced 18 August 2011
Federal Court Melbourne

Lux Distributors Pty Ltd
Commenced 10 May 2012
Federal Court Melbourne

Metricon Homes Qld Pty Ltd
Commenced 25 June 2012
Federal Court Brisbane

Neighbourhood Energy & Anor
Commenced 26 March 2012
Federal Court Melbourne

Safe Breast Imaging Pty Ltd & Anor
Commenced 21 December 2011
Federal Court Perth

Safety Compliance Pty Ltd & Ors
Commenced 16 April 2012
Federal Court Sydney

Sensaslim Australia
Commenced 16 June 2011
Federal Court Sydney

The Jewellery Group
Commenced 5 April 2011
Federal Court Adelaide

Turi Foods Pty Ltd & Ors
Commenced 5 September 2011
Continues following settlement with some of
the parties
Federal Court Melbourne

UNJ Millenium Pty Ltd & Anor
Commenced 1 June 2012
Federal Court Brisbane

Global One Mobile Entertainment Ltd (appeal)
Commenced 6 July 2011
Federal Court Sydney

Peter Foster (contempt)
Commenced 11 November 2011
Federal Court Sydney

Google Inc (appeal)
Commenced 22 June 2012
High Court of Australia

TPG Internet Pty Ltd (appeal)
Commenced 21 June 2012
Federal Court Melbourne

Other proceedings

Concluded in 2011–12

AGL Energy Ltd v Graeme Samuel and ACCC
(respondent)

Commenced 9 December 2010
Concluded 23 December 2011
Federal Court Sydney

Peter O'Brien (contempt)
Commenced 29 July 2011
Concluded 17 November 2011
Federal Court Sydney

Peter O'Brien (contempt)
Commenced 31 August 2011
Concluded 17 November 2011
Federal Court Sydney

Public warning notices

Safety Compliance Pty Ltd
Issued 7 November 2011

The ACCC suspects the company breached the Act by making misrepresentations about occupational health and safety requirements and engaged in harassment, coercion and misleading or deceptive conduct.

Safety Compliance sells workplace safety materials to small businesses across Australia through telemarketing phone calls. It is alleged the company misrepresented workplace health and safety laws in all states and Northern Territory by stating:

- a. state or territory workplace health and safety laws required businesses to maintain information and materials of the same nature offered for supply by Safety Compliance

- b. Safety Compliance was affiliated with the relevant state and territory workplace safety agency

- c. the relevant workplace safety agency conducted inspections of workplaces to ensure that businesses maintained information and materials that were of the same nature as offered for supply by Safety Compliance.

State and territory workplace agencies are not affiliated with Safety Compliance and the agencies do not conduct workplace inspections of the nature represented. Businesses are not legally required to maintain the workplace safety materials offered for supply by Safety Compliance.

Disqualification orders

Orders made during 2011–12

Mr Laurence Hann (Heartlink)
Contravention: Sections 52 and 59(2)
Ordered: 28 May 2012, disqualification from managing a corporation for 15 years.

Orders sought in proceedings continuing at the end of 2011–12

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: Section 18 and 29(1)
One sought (still before the court)

Mr Peter O'Brien (Sensaslim)
Alleged contravention: Section 18 and 29(1)
One sought (still before the court)

Mr Michael Boyle (Sensaslim)
 Alleged contravention: Section 18 and 29(1)
 One sought (still before the court)

Mr Andrew Clifford (Exclusive Media & Publishing)
 Alleged contravention: Sections 51AC, 52, 53(bb), 53(c) and 60
 One sought (still before the court)

Ms Joanne Firth (Safe Breast Imaging)
 Alleged contravention: Sections 52, 53(c), 55A, 18, 29(1)(g) and 34
 One sought (still before the court)

AER

Litigation concluded in 2011–12

Stanwell Corporation Limited
 Commenced 28 June 2009
 Concluded 30 August 2011
 Federal Court Brisbane

Ergon Energy Limited
 Commenced 20 April 2011
 Concluded 19 April 2012
 Federal Court Brisbane

Australian Competition Tribunal matters

Tribunal decision on the determination of budgets for the rollout of advanced metering infrastructure in Victoria, April 2012

Tribunal decision on AER gas distribution access arrangements for Queensland, January 2012

Tribunal decision on AER gas distribution access arrangements for South Australia, January 2012

Tribunal decision on AER electricity distribution for Victoria, January 2012

Appendix 11: Draft and final decisions in relation to regulated industries in 2011–12

AER

Transmission

- Final decision and electricity transmission determination: Powerlink regulatory control period 1 July 2012 to 30 June 2017, April 2012
- Draft decision: Powerlink electricity transmission determination 2012–13 to 2016–17, November 2011
- Decision: Approval of cost pass through application for network support (ElectraNet, Transgrid and Powerlink) 2010–11, November 2011

Distribution

- Decision: Approve 2012–13 electricity tariffs for non-Victorian Distribution Network Service Providers (DNSPs), June 2012
- Decision: Proposed demand management and embedded generation connection incentive scheme to apply to Ausgrid, Endeavour Energy and Essential Energy—1 July 2014 to 30 June 2019, May 2012
- Decision: ActewAGL application for revocation and substitution—2009–14 distribution determination, May 2012
- Draft decision: Proposed demand management and embedded generation connection incentive scheme to apply to ActewAGL Distribution—1 July 2014 to 30 June 2019, May 2012
- Final decision and distribution determination: Aurora Energy—1 July 2012 to 30 June 2017, April 2012
- Final decision: Endeavour Energy retail project event pass through application, March 2012
- Final determination: Powercor Australia Ltd's Victorian Bushfire Royal Commission cost pass through application, March 2012
- Final decision: Victorian F-factor determinations and Explanatory statement, December 2011
- Decision: Approve 2012 Victorian electricity network pricing proposals, December 2011
- Decision: Approve cost allocation method amendment—ETSA Utilities, December 2011
- Decision: Approve ActewAGL cost pass through application—negative feed-in tariff 2010–11, December 2011
- Draft distribution determination: Aurora Energy Pty Ltd—1 July 2012 to 30 June 2017, November 2011
- Final decision: Approve Energex and Ergon Waiver of QLD Ring-fencing Guidelines, October 2011
- Final decisions: Advanced Metering Infrastructure budget and charges determination 2012–15 (Victorian DNSPs), October 2011
- Final determination: Victorian advanced metering (smart meter) infrastructure roll-out 2012–15, October 2011
- Draft determinations: Victorian F-factor and Explanatory statement (CitiPower, Jemena, Powercor, SP AusNet and United Energy), October 2011
- Draft decision: Waiver of the QLD Ring-fencing obligations for Energex and Ergon Energy, September 2011

- Final decision: SP AusNet's market impact parameter, July 2011
- Draft determination: Advanced Metering Infrastructure budget and charges determination 2012–15 (Victorian DNSPs), July 2011
- Draft determination: Victorian advanced metering (smart meter) infrastructure roll-out 2012–2015, July 2011
- Final determination: SP AusNet's Revised Budget Application—2009–11, July 2011
- Decision: Extension of time granted to Ausgrid, Endeavour Energy and Essential Energy to submit cost pass through applications, July 2011

Retail

- Decision: Blue NRG Pty Ltd granted electricity retailer authorisation, June 2012
- Decision: Powershop Australia Pty Ltd granted electricity retailer authorisation, June 2012
- Decision: Alinta Energy Retail Sales Pty Ltd granted retailer authorisations for electricity and gas, June 2012
- Decision: Pacific Hydro Retail Pty Ltd granted electricity retailer authorisation, May 2012
- Decision: Approve the minimum amount (\$300) under which a retailer cannot disconnect a customer for non-payment, April 2012
- Decision: Customer hardship policies of all transitioning retailers approved, April 2012
- Final compliance documents under the National Energy Retail Law, July 2011

Gas

- Decision: Allow proposed 2012–13 tariff variations and cost pass through proposals for gas distribution and transmission pipelines, June 2012
- Draft decision: Meridian SeamGas Joint Venture and WestSide Corporation granted exemption from ring fencing obligations, June 2012
- Decision: Issue \$20,000 infringement notice to Epic Energy for submitting incorrect pipeline data to the Australian Energy Market Operator, June 2012
- Decision: Approve annual gas tariff variations for 2012–13 (non-Victorian DNSPs), May 2012
- Decision: Approve carbon price pass through application for Jemena Gas Networks (NSW) and ActewAGL (ACT)—2012–13, May 2012
- Decision: Approve carbon price pass through application for Envestra and Multinet (VIC)—2012, May 2012
- Draft Decision: Access arrangement Roma to Brisbane Pipeline, April 2012
- Final decision: Multinet change in taxes event pass through application, March 2012
- Decision: Approve 2012 Victorian gas transmission tariff—APA GasNet, December 2011
- Decision: Approve 2012 Reference Tariffs and Ancillary Reference Tariffs submitted by Victorian gas distribution networks, December 2011
- Final decision: Treatment of Jemena Gas Networks' mine subsidence expenditure, September 2011
- Final decision: APTNT's ring fencing exemption application, August 2011
- Amendments to the access arrangement for Jemena Gas Networks (NSW)—mine subsidence expenditure, August 2011
- Final decision: Access arrangement Amadeus Gas Pipeline, July 2011
- Final decision: Access arrangement South Australian gas distribution network, July 2011
- Draft decision: APTNT's ring fencing exemption application, July 2011

COMMUNICATIONS

- Draft final access determination for the domestic transmission capacity service (DTCS)—Explanatory Statement, December 2011
- Inquiry to make a final access determination for the Domestic Mobile Terminating Access Service (MTAS)—Draft Access Determination Explanatory Statement, September 2011
- Interim access determination for the wholesale ADSL service—Statement of Reasons, February 2012
- Layer 2 bitstream service description—Draft final report, November 2011
- Inquiry to make a final access determination for the Domestic Mobile Terminating Access Service (MTAS) Access Determination—Explanatory Statement, December 2011
- Inquiry into varying the exemption provisions in the final access determinations for the WLR, LCS and PSTN OA services Final Report, December 2011
- Layer 2 bitstream service declaration—Final report, February 2012
- Inquiry to make final access determinations for the declared fixed-line services—Final Report, July 2011
- Declaration of the wholesale ADSL service under Part XIC of the *Competition and Consumer Act 2010*—Final Decision, February 2012
- ACCC assessment of Telstra's Structural Separation Undertaking and draft Migration Plan—Final decision, February 2012
- Final access determination for the Domestic Transmission Capacity Service—Explanatory Statement, June 2012
- Inquiry to vary the fixed-line services final access determinations—where WLR, LCS and PSTN OA services are supplied over the NBN—Final Report, June 2012

TRANSPORT

Rail

- 18 April 2012—ARTC's Interstate Access Undertaking—Decision to consent to variation
- 9 May 2012—ARTC's Hunter Valley Access Undertaking—Position paper on ACCC's preliminary views on variation

Wheat export marketing arrangements

- 11 August 2011—Australian Bulk Alliance Proprietary Limited Port Terminal Services Access Undertaking—Draft decision
- 11 August 2011—Viterra Operations Limited Port Terminal Services Access Undertaking—Draft decision
- 23 August 2011—Co-operative Bulk Handling Limited Port Terminal Services Access Undertaking—Draft decision
- 28 September 2011—Australian Bulk Alliance Pty Ltd Port Terminal Services Access Undertaking—Decision to accept
- 28 September 2011—Viterra Operations Limited Port Terminal Services Access Undertaking—Decision to accept
- 28 September 2011—Co-operative Bulk Handling Limited Port Terminal Services Access Undertaking—Decision to accept
- 11 April 2012—Auction Objection Notice in response to Viterra Operations Limited's Auction Variation Notice
- 9 May 2012—Viterra Operations Limited Port Terminal Services Access Undertaking—Decision to consent to variation

Airports/Aviation

- 7 September 2011—Airservices Australia price notification for long-term pricing agreement dated 22 August 2011—Decision to object
- 21 September 2011—Airservices Australia price notification for long-term pricing agreement dated 9 September 2011—Decision not to object
- 20 June 2012—Airservices Australia price notification dated 8 June 2012—Decision not to object

Water

- Decision: Application for Accreditation, Essential Services Commission of Victoria, February 2012

Appendix 12: Major regulatory reports and reviews in 2011–12

AER

Reports

- Significant price (STTM) event report—27 February 2012 (Sydney Hub), May 2012
- AER Energy Update newsletter, May 2012
- Performance reports of Victorian electricity distribution businesses, 2010, May 2012
- 2009–10 TNSP Electricity Performance Report, February 2012
- State of the energy market 2011 report, December 2011
- Performance report of ACT and NSW electricity distribution businesses, 2009–10, November 2011
- AER Strategic Priorities and Work Program 2011–12, July 2011
- Wholesale Markets Quarterly Compliance Reports, July 2011, October 2011, February 2012 and April 2012
- Gas and electricity market analysis reports, weekly
- Electricity spot price above \$5000/MWh reports, October 2011 and November 2011

Guidelines and guideline consultation

- Compliance Bulletin: Confidentiality requirements for energy, metering, and NMI standing data, June 2012
- Compliance Bulletin: Monitoring and enforcing compliance of electricity offer, bid and rebid information, June 2012
- Guideline: Connection charges under chapter 5A of the National Electricity Rules for retail customers, June 2012
- Consultation: Guidance on electricity consumption benchmarks on residential customers' bills, May 2012
- Guidelines: Amendments to Compliance Procedures and Guidelines, Performance Reporting Procedures and Guidelines, Retailer of Last Resort Plan and Pricing Information Guidelines, April 2012
- Consultation: AER approval of minimum disconnection amount, February 2012
- Guideline: Final Statement of Approach to the price comparator website and final amended AER Retail Pricing Information Guideline, January 2012
- Consultation: Connection charge guideline for electricity under the forthcoming chapter 5A of the National Electricity Rules, December 2011
- Consultation: AER approval of minimum disconnection amount, December 2011
- Guideline: Final Electricity Network Service Provider Registration Exemption, December 2011
- Consultation: Distribution Ring-Fencing Guidelines Review—release of Discussion Paper, December 2011
- Compliance Bulletin: Instrument Transformer Testing, December 2011
- Compliance Bulletin: STTM information and data, December 2011
- Guideline: Final Exempt Selling and Accompanying notice of Final Instrument, December 2011
- Guideline: Final instrument: Retailer of Last Resort guidelines, plan and statement of approach, November 2011

- Draft Guideline and Consultation: Draft Statement of Approach for the price comparator website, draft amended AER Retail Pricing Information Guideline and amended Instrument, November 2011
- Consultation: 2012–13 Distribution Loss Factor Approval Process and timeline, December 2011
- Consultation: Exempt selling guideline, October 2011
- Draft Guideline: Electricity Network Service Provider Registration Exemption, September 2011
- Compliance Bulletin: Criteria for determining credible options under the RIT-T, September 2011
- Guideline: Final Retail Pricing Information Guideline and Notice of Final Instrument under the National Energy Retail Law, September 2011
- Guideline: Final Performance Reporting Procedures and Guidelines under National Energy Retail Law, July 2011
- Guideline: Retailer authorisation guideline, July 2011
- Compliance Bulletin: Submitting best estimate injection bids and withdrawal bids in the Victorian Declared Wholesale Gas Market, July 2011

COMMUNICATIONS

Reports

- Telstra's compliance with the retail price control arrangements 1 July 2010–30 June 2011, March 2012
- Telecommunications competitive safeguards for 2009–10, September 2011
- Changes in the prices paid for telecommunications services in Australia 2009–10, September 2011
- Telecommunications competitive safeguards for 2010–11, June 2012
- Changes in the prices paid for telecommunications services in Australia 2010–11, June 2012

Guidelines

- Part XIC non-discrimination guidelines—ACCC explanatory material relating to the Part XIC anti-discrimination provisions and the form of Statements of Differences, April 2012

FUEL

- Monitoring of the Australian petroleum industry—Report of the ACCC into the prices, costs and profits of unleaded petrol in Australia, December 2011
- Monitoring of the Australian petroleum industry—summary, December 2011

TRANSPORT

- Container stevedoring monitoring Report no 13, November 2011
- Airport Monitoring Report 2010–11, March 2012
- Assessing cross-subsidy in Australia Post 2010–11, May 2012

WATER

- ACCC Water Monitoring Report 2010–11, April 2012

Appendix 13: Mergers in 2011–12 —major assessments

All public merger decisions for 2011–12 were published on the ACCC website at www.accc.gov.au/mergers. Notable examples are listed below.

MERGER REVIEWS PUBLICLY OPPOSED

- ALH Group Pty Ltd (75 per cent owned by Woolworths Limited)—proposed acquisition of hotels and takeaway liquor stores in NSW

MERGER REVIEWS RESOLVED BY COURT ENFORCEABLE UNDERTAKINGS

- Asahi Holdings (Australia) Pty Ltd—proposed acquisition of P&N Beverages Australia Pty Ltd
- FOXTEL—proposed acquisition of Austar United Communications Limited
- Transit Systems Pty Ltd—proposed acquisition of Stradbroke Ferries Limited

MERGER REVIEWS NOT OPPOSED

- AGL Energy Limited—proposed acquisition of Great Energy Alliance Corporation Pty Limited
- Pact Group Pty Ltd—proposed acquisition of Viscount Plastics Pty Ltd
- Amcor Limited—proposed acquisition of Aperio Group Pty Limited
- Visy Industries Australia Pty Ltd—proposed acquisition of PET and plastic assets of HP entities
- Arrow Energy Holdings Pty Ltd—proposed acquisition of Bow Energy Limited
- Commonwealth Bank of Australia—proposed acquisition of Count Financial
- SABMiller plc—proposed acquisition of Foster's Group Limited
- Experian Australia Holdings Pty Ltd, Consortium of investors—proposed acquisition of Experian Australia Credit Services Pty Ltd
- Wesfarmers Ltd—proposed acquisition of interests in Burrup Holdings Ltd and/or Burrup Fertilisers Pty Ltd
- Proposed merger between Teys Bros (Holdings) Pty Limited and Cargill Beef Australia

Appendix 14: Significant authorisation and notification decisions in 2011–12

AUTHORISATIONS

In 2011–12 the ACCC assessed 20 applications for authorisation. Copies of all authorisation decisions for 2011–12 were published on the ACCC website at www.accc.gov.au/publicregister. Notable examples are listed below.

Authorisations granted

- Australian Dairy Farmers Ltd—conditional authorisation for collective bargaining for Dairy Farmers, granted for a period of 10 years
- The Reserve Bank Health Society Ltd—authorisation to enter into a management services agreement with Lysaght Peoplecare, granted for a period of 10 years
- Newsagents Association of NSW & the ACT—collective bargaining on behalf of its members with NSW Lotteries—draft determination proposing to grant authorisation for five years
- Australian Processing Tomato Growers—collective bargaining—granted authorisation for a period of five years
- Australian Writers' Guild Limited—collectively negotiate model agreements with film or television producers—authorisation granted until 28 February 2017
- Abbot Point Coal Export Terminal Producers—collectively discuss and negotiate terms for rail infrastructure for coal transportation—authorisation granted for a period of 15 years
- Dudgeon Point Coal Export Terminal Producers—collectively discuss and negotiate terms with QR Network for rail infrastructure for coal transportation—authorisation granted for a period of 15 years
- Dudgeon Point Coal Export Terminal Producers—Carabella and Ors to collectively discuss and negotiate terms with Dudgeon Point Project Management for port facilities—authorisation granted for a period of 15 years
- CALMS Ltd—re-authorisation to agree and set fee caps for after-hours primary medical care in the ACT—authorisation granted for a period of 10 years
- Retirees WA (Inc)—re-authorisation for collective bargaining arrangements for low cost funerals—authorisation granted for a period of 10 years
- The Real Estate Institute of Western Australia—REIWA's membership framework—authorisation granted for a period of five years
- Australian Payments Clearing Association Limited—re-authorisation for High Value Clearing System Procedures and Regulations—authorisation of proposed conduct granted for a period of 10 years
- Homemakers South Ltd—trading as Homemakers Furniture & Sleepzone Bedding—collective bargaining on behalf of its members—authorisation of proposed conduct granted for a period of five years
- Virgin Australia and Skywest Airlines—corporate alliance to corporate customers, comprising charter services, domestic and regular public transport services (excluding air cargo)—authorisation of proposed conduct granted for a period of five years
- Hunter Resource Recovery—joint tendering and contracting arrangements with city councils—authorisation of proposed conduct granted for a period of 12 years

Authorisations denied

- Nil

COLLECTIVE BARGAINING NOTIFICATIONS

In addition to seeking authorisation for collective bargaining arrangements, parties are able to lodge a collective bargaining notification. In 2011–12 four collective bargaining notifications were lodged and the ACCC finalised its assessment of one notification lodged in 2009–10. Copies of all collective bargaining notifications and ACCC decisions are available from the ACCC's website at www.accc.gov.au/publicregister. Notable examples are listed below.

Notifications allowed to stand

- Australian Newsagents' Federation Ltd—collective bargaining on behalf of the newsagents with SA Lotteries
- Mai Wiru Regional Stores Council Aboriginal Corporation—collective bargaining for procurement of essential grocery and supermarket items

Notifications revoked

- Nil

EXCLUSIVE DEALING NOTIFICATIONS

In 2011–12 the ACCC assessed more than 505 exclusive dealing notifications. Copies of all notifications are available from the ACCC's website at www.accc.gov.au/publicregister. Notable examples are listed below.

Notifications allowed to stand

- Victorian Container Management Pty Ltd & Ors—arrangements with Containerchain Pty Ltd to manage container movements

Notifications subject to review by the Tribunal

- Football Queensland Limited—Notice issued to revoke a notification of a requirement that clubs use only 'Teamwear' supplied by licensed suppliers—Football Queensland applied to the Australian Competition Tribunal for a review by the Tribunal of the ACCC's decision
- Co-operative Bulk Handling—Notice issued to revoke a notification of a requirement that grain growers who use CBH's up-country storage facilities also use CBH's transport services. CBH has applied to the Australian Competition Tribunal for a review by the Tribunal of the ACCC's decision

Appendix 15: News releases

ACCC NEWS RELEASES 2011–12 FINANCIAL YEAR

ACCC issues guidance on fibre and cable broadband 'speed' claims	01/07/11
ACCC sets water infrastructure pricing principles for the Murray-Darling basin	05/07/11
ACCC will not oppose Teys Bros and Cargill Beef Australia proposed merger	06/07/11
Optus penalised \$5.26 million for misleading broadband advertising	07/07/11
ACCC raises concerns about Airservices Australia's pricing proposal	07/07/11
ACCC invites comment on non-discrimination guidance for NBN and superfast telecommunication networks	11/07/11
ACCC conditionally authorises Queensland fly ash agreement	14/07/11
ACCC safety inspections for showbags at Royal Darwin Show	15/07/11
ACCC accepts Tiger Airways' commitment to consumers affected by grounding	15/07/11
Allphones penalised \$45 000 for contempt of court	20/07/11
ACCC concerned baby bling still on sale	20/07/11
ACCC finalises fixed-line telecommunications prices and delivers pricing certainty and stability to industry	21/07/11
ACCC takes court action against Sensaslim for alleged misleading claims	21/07/11
ACCC: Coles discounting of house brand milk is not predatory pricing	22/07/11
ACCC institutes proceedings against Trade Quip over labelling of hydraulic trolley jacks	25/07/11
ACCC proposes to authorise management services agreement for private health fund	27/07/11
Industry and Commerce business directory promotion declared misleading	29/07/11
ACCC receives Telstra's structural separation undertaking and draft migration plan	01/08/11
Aldi and Spring Gully Foods honey representations likely to mislead	03/08/11
ACCC will not oppose investments in a new credit reporting agency by major Australian lenders	03/08/11
ACCC extends dairy farmer collective bargaining arrangements	04/08/11
AUSTAR contracts likely to mislead consumers about price	05/08/11
Supplier of aquarium products prevented discounts	09/08/11
Court penalises SMS Global \$85 000 for misleading consumers	10/08/11
ACCC not to oppose proposed acquisition of P&N by Ashai	11/08/11
Auction system needed for Viterra's South Australian bulk grain port terminals	11/08/11
ACCC draft view on arrangements for wheat exporters at Melbourne Port Terminal	11/08/11
ACCC takes contempt action against Sensaslim director	16/08/11
ACCC mandatory product safety reporting triggers recalls	16/08/11
ACCC begins public consultation on non-NBN local bitstream access service description	18/08/11
ACCC calls for comment on FOXTEL's proposed acquisition of AUSTAR	22/08/11
ACCC proposes to authorise Qantas and American Airlines Joint Business Agreement	22/08/11
CBH's bulk grain port terminals in Western Australia should retain auction system	23/08/11
ACCC exposes construction bid rigging	25/08/11

Metcash Franklins decision 'disappointing'	25/08/11
ACCC takes action against Victorian meat suppliers for King Island origin claims	25/08/11
South Australian rainwater tank retailer admits misleading customers	25/08/11
ACCC authorises management services agreement for private health fund	25/08/11
ACCC institutes proceedings against Energy Watch	26/08/11
Draft decision on newsagents collective bargaining with NSW Lotteries	26/08/11
Brazilian blowout formaldehyde-free representations likely to mislead	29/08/11
ACCC calls for comment on Telstra's structural separation and draft migration plan	30/08/11
Don't be a jackass with jacks	01/09/11
ACCC invites comment on geographic exemptions for declared fixed-line telecommunications services	01/09/11
Door to door seller admits misleading conduct	02/09/11
ACCC: Recent anti-Israel protests not a secondary boycott	02/09/11
WA solar retailer Austech pays infringement notice	02/09/11
International Internet sweep targets websites with false sponsorships	06/09/11
ACCC joins NRM to Advanced Medical Institute proceedings and alleges unfair contract terms	07/09/11
ACCC takes action over 'free to roam' chicken claims	07/09/11
ACCC: Airservices Australia's proposed prices too high	08/09/11
Energy Watch provides undertakings to the Federal Court	08/09/11
ACCC appeals Metcash judgment	09/09/11
ACCC: Football Queensland licensing program raises competition concerns	09/09/11
ACCC: Contempt of Court proceedings against SMS Global Pty Ltd	12/09/11
ACCC seeks interim injunction pending full court appeal	13/09/11
ACCC puts energy retailers on notice over door to door practices	13/09/11
Metcash Full Court appeal to be heard in October	20/09/11
ACCC does not oppose revised price increases by Airservices Australia	22/09/11
ACCC: Court decision on Google clarifies misleading advertisements	22/09/11
ACCC issues draft MTAS final access determination	23/09/11
ACCC Telecommunications report—wireless connections increasingly popular, but fixed-lines dominate downloads	23/09/11
ACCC takes court action against publishing companies	26/09/11
ACCC not to oppose SABMiller's acquisition of Foster's group	28/09/11
ACCC authorises Qantas and American Airlines Joint Business Agreement	29/09/11
ACCC approves Melbourne Port Terminal wheat access arrangements	29/09/11
ACCC approves SA wheat export access arrangements	29/09/11
ACCC approves WA wheat export access arrangements	29/09/11
ACCC reinforces its NBN access regulatory role	30/09/11
ACCC allows collective bargaining for remote community stores	05/10/11
ACCC takes action against cotton on over children's nightwear	06/10/11
NSW and ACT newsagents to collectively bargain with NSW Lotteries	06/10/11
ACCC: Franchising Sector needs to work on image	07/10/11

ACCC will closely watch use of market power warns ACCC chairman	10/10/11
ACCC: Effective regulation of Airports needed	10/10/11
Tiger Airways issues corrective notice	12/10/11
ACCC appeals Google decision	13/10/11
ACCC proposes to authorise alliance between Virgin Australia and Singapore Airlines	13/10/11
Court declares lawyer engaged in misleading debt collection practices	19/10/11
ACCC takes second contempt action against Sensaslim director	19/10/11
ACCC grants interim authorisation to CALMS fee cap schedule	20/10/11
ACCC National Survey removes over 95 000 unsafe products	20/10/11
ACCC chairman to pursue misuse of market power	25/10/11
ACCC: Company penalised \$40 000 for breaching product safety standard	26/10/11
South Australian newsagents to collectively bargain with SA Lotteries	27/10/11
Coal producers granted interim authorisation for collective negotiations	27/10/11
Toxic lead Levels in children's Halloween face paints	28/10/11
ACCC launches iPhone app for Product recalls	28/10/11
Wicked Campers pays infringement notices	31/10/11
Court penalises Queensland construction companies for controlling tender price	02/11/11
ACCC identifies risks to container ports meeting demand	02/11/11
ACCC expects QANTAS to be fair in dealing with customers	02/11/11
True Value Solar pays infringement notices for misleading advertising	04/11/11
ACCC issues public warning notices	08/11/11
ACCC chairman praises Australian Consumer Law: Flags Indigenous protection	08/11/11
Court finds TPG broadband advertisements false and misleading	08/11/11
ACCC: Removalist admits publishing false testimonials	09/11/11
ACCC issues carbon price claims guide for businesses	16/11/11
ACCC chairman: Access to infrastructure essential for economic growth	16/11/11
ACCC takes action against Europcar in Tasmania	16/11/11
ACCC not to oppose acquisition of Count Financial Ltd	17/11/11
Korean Air Lines penalised \$5.5 million for price fixing cartel	18/11/11
ACCC takes contempt action against Peter Foster	21/11/11
ACCC discontinues contempt proceedings against Peter O'Brien	21/11/11
ACCC seeks final comment on local bitstream access service	24/11/11
ACCC calls for comment on Pact Group's proposed acquisition of Viscount Plastics	24/11/11
Court finds TVI Express a pyramid selling scheme	30/11/11
ACCC considers Metcash judgment	30/11/11
ACCC will not oppose Arrow Energy's acquisition of Bow Energy	01/12/11
ACCC authorises alliance between Virgin Australia and Singapore Airlines	01/12/11
ACCC: Discussions with Telstra continue	02/12/11
ACCC Calls for comment on draft guidelines for dating websites	02/12/11
ACCC issues revised guide on water termination fee rules	05/12/11
ACCC responds to Metcash decision	05/12/11
ACCC accepts undertaking for formaldehyde misrepresentations in hair product	07/12/11

ACCC issues draft decision on collective bargaining for film and TV writers	08/12/11
ACCC petrol report shows higher prices reflect global trends	08/12/11
Harvey Norman Holdings Ltd penalised \$1.25 million for misleading advertising	08/12/11
ACCC proposes to authorise collective bargaining by Abbot Point coal miners with QR Network	08/12/11
ACCC issues MTAS final access determination	08/12/11
ACCC receives revised structural separation undertaking from Telstra	09/12/11
ACCC takes action on unsafe teeth-whiteners	09/12/11
ACCC issues draft final access determination for regulated transmission services	09/12/11
ACCC and SA Government to combat cartels	13/12/11
ACCC issues draft guidelines on non-discrimination for NBN and superfast telecommunications networks	13/12/11
ACCC proposes to authorise collective bargaining in the tomato industry	14/12/11
ACCC: Football Queensland licensing program anti-competitive	15/12/11
ACCC proposes to authorise collective bargaining by Dudgeon Point coal	15/12/11
ACCC takes action against Excite Mobile Pty Ltd	15/12/11
Contempt proceedings against SMS Global resolved	16/12/11
ACCC notes effort by Qantas	16/12/11
Capped fees for after-hours medical care in the ACT to continue	16/12/11
ACCC invites comment on Telstra's revised structural separation undertaking	16/12/11
ACCC commences inquiry into declaration of wholesale ADSL	16/12/11
ACCC revokes geographic exemptions for declared fixed-line services	16/12/11
ACCC: Know your shopping rights this Christmas	19/12/11
ACCC commences public consultation on NBN Co Special Access Undertaking	20/12/11
Ticketek Pty Ltd penalised \$2.5 million for misusing its market power	22/12/11
No lead detected in toys at the border (joint release with Customs and Border Protection)	22/12/11
ACCC Christmas/New Year arrangement	23/12/11
Gold Coast Wool pays penalty for false 100 per cent wool claims	04/01/12
ACCC: Businesses must not misrepresent the effect of NT rail bridge damage on prices of goods or services	05/01/12
ACCC institutes proceedings against commercial breast imaging providers	05/01/12
Furniture Galore pays infringement notices for misleading advertising	11/01/12
2012 scam survey now online (Joint Release)	11/01/12
ACCC accepts Australian Workplace Services' undertaking over misleading representations	11/01/12
ACCC takes action against Air Asia for misleading pricing	24/01/12
Collective bargaining for film and television writers	25/01/12
ACCC: Interim approval for continued use of high volume clearance system	25/01/12
ACCC grants interim approval for joint recycling tender	25/01/12
ACCC grants interim approval to Virgin and Skywest's corporate alliance	25/01/12
ACCC takes court action against Eternal Beauty Products Pty Ltd	31/01/12
ACCC to launch consumer 'Use your rights' campaign	03/02/12

Scooter safety in the spotlight: Community urged to take part in safety survey (joint release)	09/02/12
Businesses urged to embrace new consumer law	09/02/12
ACCC seeks comment on Woolworths' proposed liquor off-licence acquisition	09/02/12
ACCC invites further comments on NBN Co special access undertaking	10/02/12
ACCC launches guidelines to help dating websites protect consumers from scams	14/02/12
ACCC declares wholesale ADSL, commences related processes	14/02/12
ACCC authorises collective bargaining by Queensland coal miners	16/02/12
ACCC supports affordable funerals	16/02/12
Essential Services Commission to be water regulator for Victorian Murray-Darling Basin	20/02/12
ACCC enforcement priorities released	20/02/12
ACCC receives further revised structural separation undertaking from Telstra	23/02/12
ACCC acts to protect consumers and King Island producers	23/02/12
ACCC calls for comment on Amcor's bid for Aperio	23/02/12
ACCC chairman reflects on regulation	23/02/12
ACCC declares non-NBN local bitstream access service and begins public inquiry	24/02/12
ACCC authorises collective bargaining in the Victorian tomato industry	24/02/12
Homebrew supplier provides undertaking for resale price maintenance	27/02/12
Capped fees for after-hours care in the ACT to continue	27/02/12
ACCC consults on auctions for SA wheat ports	28/02/12
ACCC accepts Telstra's structural separation undertaking	28/02/12
ACCC calls for comment on Visy's proposed acquisition	29/02/12
ACCC to authorise collective recycling tenders by Hunter councils	01/03/12
International cooperation the key to competitive regional economies	02/03/12
Trade Quip penalised for breach of product safety standard	05/03/12
ACCC to consult market on proposed FOXTEL undertaking	07/03/12
ACCC takes court action against SA egg supplier	08/03/12
ACCC calls for comment on Australian Leisure and Hospitality's proposed acquisitions	08/03/12
Full Federal Court orders Optus to pay \$3.6 million penalty	09/03/12
ACCC shines a spotlight on apps targeting children	09/03/12
ACCC takes court action against Flight Centre Limited	09/03/12
ACCC proposes to allow independent furniture and bedding retailers to collectively bargain with suppliers	15/03/12
World Consumers' Day marks 50 years of progress	15/03/12
ACCC accepts court enforceable undertakings from remote community store	16/03/12
ACCC proposes to reauthorise arrangements for WA real estate and business agents	16/03/12
Distributor of 'Double D' eucalyptus oil pays infringement notice for false made in Australia claim	16/03/12
Phone No. 1 choice for scam delivery 'Slam Scams!' fraud week campaign 19–25 March	19/03/12
Scam reports almost double for second consecutive year: ACCC launches targeting scams report	19/03/12
ACCC: Small business must be alert to scams	20/03/12

ACCC proposes to reauthorise rules to support high value payments	21/03/12
ACCC not to oppose proposed acquisition of HP's PET and plastics assets by Visy	21/03/12
ACCC and telco ombudsman tackle phone and SMS scam	22/03/12
ACCC proposes to authorise Corporate Alliance between Virgin Australia and Skywest airlines	22/03/12
ACCC takes court action against energy retailers for door to door sales tactics	27/03/12
ACCC to seek orders against Apple for alleged misleading iPad '4G' claims	27/03/12
ACCC not to oppose Amcor Limited's proposed acquisition of Aperio Group Pty Limited	28/03/12
Apple Pty Ltd provides undertaking in response to ACCC 'iPad with WiFi + 4G' urgent application	28/03/12
ACCC calls for comment on APA's proposed acquisition	29/03/12
ACCC issues annual report on airport performance	30/03/12
ACCC calls for comment on APA's proposed acquisition	30/03/12
ACCC receives international agency of the year award from Global Competition Review	30/03/12
ACCC wins appeal against Google	03/04/12
Button Batteries: A Little Known Risk	03/04/12
ACCC finds telecommunications bundling to be misleading and third line forcing	05/04/12
ACCC not to oppose Pact Group's proposed acquisition of Viscount Plastics	05/04/12
ACCC seeks comment on proposed variation to the fixed-line final access determination	05/04/12
ACCC proposes to authorise service agreement between copyright societies	05/04/12
ACCC not to oppose AUSTAR acquisition after undertaking resolves concerns	10/04/12
ACCC to work with Viterra to improve auction system for bulk wheat exports	11/04/12
ACCC collective bargaining decision supports affordable funerals	12/04/12
ACCC authorises collective recycling tenders by Hunter councils	12/04/12
ACCC proposes to authorise collective bargaining by Inghams' South Australian chicken growers	12/04/12
Foxtel pays infringement notices for Christmas sale advertising	13/04/12
ACCC takes action against Safety Compliance Pty Ltd	24/04/12
TPG pays infringement notices for free VoIP minutes claim	25/04/12
ACCC releases 2010–11 water monitoring report for the Murray-Darling Basin	26/04/12
Court finds Energy Watch advertising campaign misleading	01/05/12
ACCC and ombudsmen an important connection in consumer protection	01/05/12
ACPA authorised to continue operating its high value clearing system	02/05/12
ACCC investigates information sharing arrangements in the petrol industry	03/05/12
ACCC tackles Homeopathy Plus! Whooping Cough claims	03/05/12
No cross-subsidy in Australia Post: ACCC report	04/05/12
ACCC chairman outlines priorities in enforcing competition law	05/05/12
ACCC allows more time to develop wheat port capacity auction in South Australia	09/05/12
ACCC authorises Corporate Alliance between Virgin Australia and Skywest Airlines	10/05/12
ACCC alleges unconscionable conduct by vacuum cleaner retailer	10/05/12
Solar company pays infringement notice for affiliation claims	11/05/12
ACCC completes review of mortgage broker membership arrangements	11/05/12

Independent furniture and bedding retailers to collectively bargain with suppliers	12/05/12
Call for comment on Woolworths/Lowe's proposed acquisition of G Gay & Co hardware stores	16/05/12
ACCC grants interim approval to Emirates and Flydubai's Affiliation Agreement	18/05/12
ACCC grants interim approval for Etihad and Air Berlin to start implementing their aviation alliance	18/05/12
Olive oil producer pays infringement notices for extra virgin claims	18/05/12
ACCC issues final guidelines on non-discrimination for NBN and superfast telecommunications networks	19/05/12
ACCC reauthorises arrangements for WA real estate and business agents	19/05/12
ACCC succeeds in appeal of MSY Technology judgment	20/05/12
\$200 000 penalty for TVI Express pyramid selling scam	21/05/12
ACCC grants interim authorisation to Transport Workers Union Queensland Branch	24/05/12
Draft decision on collective bargaining by Tasmanian lottery agents	24/05/12
ACCC not to oppose AGL's acquisition of Loy Yang Power	24/05/12
ACCC authorises service agreement between copyright collecting societies	24/05/12
ACCC issues further guidance on carbon price claims	25/05/12
Trolley jack supplier pays for breaching safety standard	28/05/12
ACCC proposes to authorise NBN Co/Optus HFC subscriber agreement	28/05/12
Heartlink company director banned for 15 years and penalised \$450 000 after ACCC action	29/05/12
ACCC calls for comment on proposed acquisition of Caringbah Hotel by Australian Leisure & Hospitality	31/05/12
ACCC not to oppose Glencore International plc's proposed acquisition of Viterra Inc	07/06/12
TVI Express respondent, Lualhati Jutsen, in contempt of court	12/06/12
Malaysia Airlines Cargo Sdn Bhd penalised \$6 million for price fixing cartel	14/06/12
ACCC moving to address industry structure concerns in concentrated markets	14/06/12
ACCC authorises collective bargaining by Inghams' South Australian chicken growers	15/06/12
ACCC to launch carbon claims hotline	18/06/12
TPG penalised \$2 million for misleading broadband advertising	20/06/12
ACCC suspends assessment of NBN Co special access undertaking	20/06/12
ACCC grants interim approval to Surat Basin coal producers to collectively bargain	20/06/12
Apple Pty Ltd penalised \$2.25 million for misleading 'iPad with WiFi + 4G' claims	21/06/12
ACCC invites comment on proposal to conditionally authorise collective bargaining for small private hospitals	21/06/12
ACCC grants interim authorisation to Australian Bankers' Association	21/06/12
ACCC Telecommunications reports: consumers benefit from 20 years of competition	21/06/12
ACCC issues final access determination for regulated transmission services	22/06/12
Appointment of adjudicator gives Telstra wholesale customers new avenue for dispute resolution	22/06/12
The High Court to hear Google's appeal	22/06/12
Court dismisses appeal of Carmichael builders in ACCC price controlling case	25/06/12
ACCC takes court action against Dateline Imports Pty Ltd	26/06/12

ACCC proposes to authorise aviation alliances	27/06/12
ACCC proposes to authorise Star Alliance programs	27/06/12
ACCC does not object to proposed price increases by Airservices Australia	27/06/12
ACCC opposes Australian Leisure and Hospitality's proposed acquisition of certain liquor assets in NSW	28/06/12
ACCC proposes authorising contract talks between Queensland owner-driver group and car carrier	28/06/12
FFA and ACCC kick off game plan for young soccer player safety	29/06/12
ACCC varies fixed-line services final access determinations	29/06/12

AER NEWS RELEASES 2011–12 FINANCIAL YEAR

AER makes draft determination on Victorian smart meter costs and charges	28/07/11
AER: Queensland generator Stanwell decision 'disappointing'	30/08/11
Regulator proposes changes to price setting rules	29/09/11
AER makes final decision on smart meter charges	31/10/11
ACT and NSW electricity distribution businesses comparative performance report 2009–10	16/11/11
AER draft decision on Powerlink's electricity transmission network proposal	29/11/11
AER issues draft determination on Aurora Energy	29/11/11
AER approval of Victorian electricity network tariffs for 2012	14/12/11
Regulator publishes fifth annual report on energy sector	14/12/11
Tribunal decision on AER electricity distribution for Victoria	24/01/12
Tribunal decision on AER gas distribution access arrangements for SA and QLD	24/01/12
Electricity transmission sector performance report	08/02/12
Federal Court upholds AER's decision on Ergon Energy's street lighting services	23/04/12
AER draft decision on Roma to Brisbane gas Pipeline	30/04/12
Final decision—Powerlink's electricity transmission network proposal	30/04/12
Final determination on Aurora's electricity distribution network proposal	30/04/12
Tribunal decision on AER smart meter determination	04/05/12
Victorian electricity distribution businesses comparative performance report	09/05/12
Epic Energy penalised for data failures	21/06/12

Appendix 16: Correction of material errors in previous annual reports

The printed version of the ACCC Annual Report 2010–11 contained an error in Part 3 Report on performance—page 101 content, first paragraph, third line.

The ACCC regulates aspects of the transport sector under the *Competition and Consumer Act 2010* (CCA), regulating third party access to essential infrastructure services under Part IIIA and undertaking a prices oversight role under Part VIIIA. The ACCC also has a role under Part X

The reference to Part VIIIA should be to Part VIIA. This was corrected in the online versions.

The printed version of the ACCC Annual Report 2010–11 contained an error in Part 3 Report on performance—page 108 content, final paragraph.

Guidelines

The ACCC may also produce guidelines that the Copyright Tribunal must take into account if requested to do so by a party to a Tribunal proceeding.

In June 2011, the ACCC released for public consultation draft copyright guidelines setting out what the ACCC considers to be an appropriate economic approach to determining copyright remuneration and providing guidance to copyright licensees on when the ACCC will seek to participate in Copyright Tribunal matters in the future.

The ACCC did not release draft copyright guidelines for consultation in 2010–11. This was corrected in the online versions.

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
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
DNSP	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
	Letter of transmittal	Mandatory	iii
	Table of contents	Mandatory	v
	Index	Mandatory	317
	Glossary	Mandatory	309
	Contact officer(s)	Mandatory	ii
	Internet home page address and internet address for report	Mandatory	ii
Review by Secretary			
	Review by departmental secretary (i.e. ACCC and AER Chairmen)	Mandatory	1–16
	Summary of significant issues and developments	Suggested	1–12
	Overview of department's performance and financial results	Suggested	13–16
	Outlook for following year	Suggested	8, 10–11
	Significant issues and developments—portfolio	Portfolio departments—suggested	Not applicable
Departmental Overview			
	Role and functions	Mandatory	18–20
	Organisational structure	Mandatory	23–4
	Outcome and program structure	Mandatory	21
	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
Report on Performance			
	Review of performance during the year in relation to programs and contribution to outcomes	Mandatory	28–157

Part of Report	Description	Requirement	Page
	Actual performance in relation to deliverables and KPIs set out in PB Statements/PAES or other portfolio statements	Mandatory	46–7, 84–7, 129–33, 155–7
	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	28–157
	Trend information	Mandatory	13–15, 77, 137, 175–6, 179–81
	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	1–12, 28–157
	Contribution of risk management in achieving objectives	Suggested	31–2, 36, 49–50, 75, 77–8, 168
	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	135–41, 171
	Discussion and analysis of the department's financial performance	Mandatory	13–16
	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	262–3
Management and Accountability			
Corporate Governance			
	Agency heads are required to certify that their agency comply with the Commonwealth Fraud Control Guidelines	Mandatory	iii, 169
	Statement of the main corporate governance practices in place	Mandatory	167–70
	Names of the senior executive and their responsibilities	Suggested	23–4, 160–7
	Senior management committees and their roles	Suggested	167–8
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