



OVERVIEW OF THE ACCC

The Commission is an independent statutory authority that administers the *Trade Practices Act 1974*, state and territory Application Acts and the *Prices Surveillance Act 1983*.

The Commission seeks to improve competition and efficiency in markets, foster adherence to fair trading practices in well-informed markets, promote competitive pricing wherever possible and restrain price rises in markets where competition is less than effective. It is especially concerned to foster a fair and competitive operating environment for small business.

In seeking to prevent or limit anti-competitive conduct and to ensure adherence to fair trading principles the Commission:

- takes action through compliance education programs, investigations, litigation or enforceable undertakings if necessary to overcome market problems
- adjudicates on business practices (including merger proposals)
- considers access issues concerning essential facilities
- enforces product safety standards
- has functions under provisions of the Trade Practices Act which impose a liability on manufacturers for damage caused by defective goods
- undertakes certain functions relating to prices surveillance, public inquiries and monitoring of goods and services under the Prices Surveillance Act
- administers the prohibition on price exploitation in relation to the New Tax System
- maintains close liaison with federal, state and territory governments, and regulatory authorities on economic structural reform
- provides guidance to business and consumers about the Trade Practices Act and the Prices Surveillance Act.

Legislation

Trade Practices Act

The object of the Trade Practices Act is to enhance the welfare of Australians by promoting competition and fair trading and providing for consumer protection.

Prices Surveillance Act

The Prices Surveillance Act enables the Commission to examine the prices of selected goods and services. It aims to promote competitive pricing wherever possible and to restrain price rises in markets where competition is less than effective.



Related legislation

The Commission has responsibilities under other legislation as follows:

Airports Act 1996—to perform quality of service monitoring and reporting, to facilitate access to airport services of national significance, and to receive accounts and reports which facilitate its price oversight role.

Australian Postal Corporation Act 1989—to inquire into disputes about the amount of postal rate reduction given by Australia Post to bulk mailers interconnecting or attempting to interconnect to the Australian Postal System.

Broadcasting Services Act 1922—to report, in terms of the merger and authorisation provisions in the Trade Practices Act, on the allocation of subscription television broadcasting licences to applicants. To monitor, in conjunction with the Australian Broadcasting Authority, the cross-media ownership of the holders of subscription television broadcasting licences.

Gas Pipelines Access (Commonwealth) Act 1998—gives effect to the Commission’s role as regulator of third party access to natural gas pipeline systems under the National Third Party Access Code for Natural Gas Pipeline Systems. This role includes arbitration of disputes over spare capacity, and regulation of increases in capacity and the terms and conditions upon which haulage services are provided.

Moomba–Sydney Pipeline System Sale Act 1994—arbitration of disputes over the existence of spare capacity, the interconnection of a pipeline to the Moomba–Sydney pipeline, increases in capacity, and terms and conditions of provision of haulage service.

Telecommunications Act 1997—the Commission’s main functions under the Act relate to telecommunications competition matters. Various provisions give the Commission a role wider than it has under the Trade Practices Act.

Trade Marks Act 1995—responsibilities in relation to the approval of Certification Trade Marks.

Exceptions under Commonwealth, state and territory legislation

Some Commonwealth, state and territory Acts permit conduct that would normally be an offence under the Trade Practices Act. Section 51(1) of the Trade Practices Act provides that such conduct may be permitted if it is specifically authorised under those other Acts.

Below is a list of legislation that allows such conduct.

Commonwealth	Trade Practices Amendment (Country of Origin) Act 1998 Wheat Marketing Act 1989 Trade Practices Amendment (International Liner Cargo Shipping) Act 2000
New South Wales	Totalizer Act 1997 Registered Clubs Act 1976 Liquor Act 1982 Competition Policy Reform (NSW) Regulation 1996 Marketing of Primary Products Act 1983 Farm Produce (Repeal) Act 1996 Coal Industry Act 2001 Industrial Relations Amendment (Public Vehicles and Carriers) Act 2001 Industrial Relations (Ethical Clothing Trades) Act 2001



New South Wales continued	Olympics Arrangements Act 2000* Olympic Roads and Transport Authority Act 1998* Sydney Organising Committee for the Olympic Games Act 1993*
Northern Territory	Electricity Reform Act 2000 Water Supply and Sewerage Act Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice) Regulations Year 2000 Information Disclosure Act 1999*
Queensland	Competition Policy Reform (Queensland) Public Passenger Service Authorisations Regulation 2000 Petroleum Act 1923 Gladstone Power Station Agreement Act 1993 Forestry Act 1959 Chicken Meat Industry Committee Act 1976 Sugar Industry Act 1999 Year 2000 Information Disclosure Act 1999* Competition Policy Reform (Queensland – Dairy Industry Exemptions) Regulation 1998* Competition Policy Reform (Queensland – Sugar Industry Exemptions) Regulation 1998* Competition Policy Reform (Queensland) Act 1996*
South Australia	Barley Marketing Act 1993 Authorised Betting Operations Act 2000
Tasmania	Electricity Supply Industry Act 1995 Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995
Victoria	Gas Industry Act 2001 Gas Industry Act 1994 Gas Industry (Residual Provisions) Act 1994 Barley Marketing Act 1993* Competition Policy Reform (Victoria) Act 1995* Electricity Industry (Amendment) Act 1996* Electricity Industry (Trade Practices) Regulations 1994*
Western Australia	North West Gas Development (Woodside) Agreement Act 1979

*Subsection 51(1) exceptions no longer current.



Outputs and performance indicators for 2001–02

The Commission has one overall outcome, which is strong, sustainable economic growth and the improved well being of Australians. The outcome defines the Commission's role in delivering government competition and consumer policy—that is, to enhance the social and economic welfare of the Australian community by fostering competitive, efficient, fair and informed Australian markets.

The Commission's outputs and performance indicators, as published in the Portfolio Budget Statements in 2001–02, and how they were measured, are listed below.

Outcome 1—Contribution of outputs

Table 2.2. Performance information for Outcome 1

Indicators	Outcomes
EFFECTIVENESS—OVERALL ACHIEVEMENT OF THE OUTCOME	
Secure compliance by business with the Trade Practices Act.	
Investigating complaints, developing and implementing compliance programs, evaluating and reviewing applications for authorisations, access undertakings, monitoring them and arbitrating disputes. A small business focus which informs and educates small business about its rights and obligations under the Trade Practices Act (TPA) with a view to assisting in enforcing the TPA in relation to small business issues. A focus in the non-traded goods and services sector to encourage competition in markets and consumer protection.	Prescribed time limits and standards were met; decisions were based on relevant facts; public relations program—including media releases, publications and liaison meetings—was effective. These indicators were thereby met.
Secure Improvement in market conduct.	
Assisting with the development and implementation of regulatory frameworks which maximise the potential for promotion of competition and efficient outcomes including through access to essential facilities, liaising widely with key stakeholders, and reviewing price notifications from declared companies and monitoring prices as required under the Prices Surveillance Act.	Decisions resulting in improved access and service delivery and development of pro-competitive regulatory frameworks were timely. Price notifications were published within statutory timeframes. These indicators were thereby met.
Community informed about the Trade Practices Act and the Prices Surveillance Act and their implications for business and consumers.	
Information programs, publications and publicity are used to promote general awareness of the Acts and the ACCC's priorities and procedures. By these means also the deterrent and educational potential of the ACCC's enforcement work is reinforced.	Level of community awareness and responsibility was monitored; number of complaints, inquiries, attendance at seminars was counted; and community surveys were undertaken. These indicators were thereby met.



Indicators

Outcomes

PERFORMANCE INFORMATION FOR ADMINISTERED ITEMS (including third party outputs)

Output group 1.1 — Australian Competition and Consumer Commission

Output 1.1.1: The proper administration and enforcement of the *Trade Practices Act 1974*, the *Prices Surveillance Act 1983* and related laws.

Collection of statutory fees and judgment debts.

Banking and recording of statutory fees and judgment debts was timely.
This indicator was thereby met.

PERFORMANCE INFORMATION FOR AGENCY OUTPUTS

Output group 1.1 — Australian Competition and Consumer Commission

Output 1.1.1: The proper administration and enforcement of the *Trade Practices Act 1974*, the *Prices Surveillance Act 1983* and related laws.

Increasing resolution speed of arbitrations in telecommunications.

Number of outstanding arbitrations was reduced to 2. This indicator was thereby met.

Reducing the number of outstanding regulatory decisions in telecommunications.

Number of outstanding access disputes was reduced to 2, and the indicator was thereby met.

Increasing number of telecommunications investigations.

From 210 complaints, 13 issues progressed to substantial investigation. The indicator was thereby mostly met.

Reducing the number of outstanding regulatory decisions in gas.

Outstanding applications reduced to 4, and the indicator was thereby met.

Development and finalisation of regulatory guidelines in gas.

Draft guidelines released on 25 June 2002; on schedule to finalise in early 2003.

Increasing resolution speed of arbitrations in gas.

Currently there is only 1 arbitration on foot; the indicator is thereby met.

Extending Commission small business communications programs to remote business and community organisations.

115 remote communities reached by satellite broadcast. The indicator is thereby met.

Development of tailored compliance information tool kits for distribution to small business.

Compliance tools and information for small business for distribution developed by June 2002. Information leaflets tailored to 4 key problem areas of small business by June 2002. The indicator is thereby met.

Development and finalisation of regulatory guidelines in electricity.

Regulatory principles guidelines for transmission networks are well advanced and will be finalised by December 2002. The indicator is thereby partially met.

Reducing the number of outstanding regulatory decisions in electricity.

Network ring fencing and accounting separation rules were finalised by December 2001. The indicator is thereby met.

Reducing the time taken to authorise national electricity market code changes.

National electricity code changed to incorporate move towards nodal pricing on transmission network by December 2001. Outstanding authorisations reduced from 60 to 6. The indicator is thereby met.



Indicators	Outcomes
Extending Commission communications programs to remote business and community organisations in rural and regional Australia.	Support arrangements agreed with 430 locations in regional Australia. Rural and regional consultation developed on a state-by-state basis with a pilot in Tasmania. Regional visits program implemented. ACCC services advertised in regional and rural press at least 4 times during the year. The indicator is thereby met.
Reduction in number of irrelevant complaints.	Percentage of irrelevant complaints reduced from 53 per cent to 25 per cent. This indicator, which was scheduled to be met by June 2003, is thereby met.
Development of domestic and international information exchange networks on e-commerce.	Networks with international and domestic agencies to gain expertise in information/Internet-based conduct were established by December 2001. Internet-specific strategy to improve the handling of potential competition and consumer protection issues by government agencies and to encourage exchange of information on relevant e-commerce activities, was developed. The indicator was thereby met.
Establishment of an e-commerce investigatory capability.	External consultants are currently being relied upon to provide computer forensic capacity. Feasibility studies are currently being undertaken in relation to internal provision. Relevant skills are being developed. Strategies to manage Commission's capacity to respond quickly to emerging issues are being developed. The indicator is therefore mostly met.
Extending production of compliance information for the health and other professions sector.	Over 25 presentations made to seminars and conferences. Sector specific publications not yet produced. The indicator is therefore partially met.
Undertake compliance/adjudication actions in the health and other professions sector.	Four adjudication and 4 compliance actions commenced. This indicator is thereby met.

Output 1.1.2: Performance of actions that promote competition and fair trading and enable well functioning markets.

The number of stakeholder visits.	Increase in number of stakeholder contacts from 10 to 50.
Increasing the level of awareness of ACCC and its role.	Awareness of the Trade Practices Act in the small business and other emerging markets sectors increased as measured by provision of an additional 5000 copies of compliance publications. ACCC Consumer Committee met twice. This indicator is thereby met.
Development of tailored compliance information tool kits for distribution to organisations in rural and regional Australia.	Two new publications provided to remote communities. This indicator is thereby met.



Table 1.1 Financial and staffing resources 2000–01

Reporting of outcomes

Total cost/contribution of outcomes (Whole of Government)

	Outcome 1		Total	
	Budget \$'000	Actual \$'000	Budget \$'000	Actual \$'000
Net taxation, fees and fines revenue	(40 000)	(6 780)	(40 000)	(6 780)
Other administered revenues	-	(372)	-	(372)
Administered expenses	200	-	200	-
Net cost of departmental outputs	77 699	71 104	77 699	71 104
Cost of outcome before extraordinary items	37 899	63 952	37 899	63 952
Extraordinary items	-	-	-	-
Net cost to budget outcome	37 899	63 952	37 899	63 952

Major departmental revenues and expenses by output group

	Output Group 1		Output Group 2		Non-attributable		Total	
	2002 \$'000	2001 \$'000	2002 \$'000	2001 \$'000	2002 \$'000	2001 \$'000	2002 \$'000	2001 \$'000
Operating revenues								
Revenue from government	57 716	-	25 744	-	-	75 687	83 460	75 687
Sale of goods and services	198	-	192	-	-	1 045	390	1 045
Other non-taxation revenues	481	-	249	-	-	237	730	237
Total operating revenues	58 395	-	26 185	-	-	76 969	84 580	76 969
Operating expenses								
Employees	21 009	-	12 850	-	-	29 706	33 859	29 706
Suppliers	27 718	-	8 273	-	-	37 346	35 991	37 346
Depreciation & amortisation	1 504	-	507	-	-	1 723	2 011	1 723
Other	285	-	140	-	-	401	425	401
Total operating expenses	50 516	-	21 770	-	-	69 176	72 286	69 176

Major classes of administered revenues and expenses by outcome

	Outcome 1		Total	
	2002 \$'000	2001 \$'000	2002 \$'000	2001 \$'000
Operating revenues				
Fines and costs	6 780	42 807	6 780	42 807
Authorisation fees	361	432	361	432
Other	11	6	11	6
Total operating revenues	7 152	43 245	7 152	43 245
Operating expenses				
Net write-down of assets	-	101	-	101
Total operating expenses	-	101	-	101

Full-time equivalent employees	2001–02 478	2000–01 438
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Structure of the Commission

During the reporting period the Commission comprised six full-time commissioners, reducing to four when the appointments of Rod Shogren and Dr David Cousins ended on 29 April 2002 and 14 June 2002 respectively.

The remaining four full-time commissioners were: Chairman Professor Allan Fels, Commissioners Sitesh Bhojani, Ross Jones and John Martin.

Ms Jennifer McNeill was appointed as Commissioner on 22 July 2002.

Five part-time associate commissioners served during the report period. The appointments of four of them ended on 3 June 2002: Teresa Handicott, Warwick Wilkinson AM, Don Watt and Professor Douglas Williamson QC. Yasmin King was re-appointed on 4 December 2001 until 25 October 2004. Other re-appointments are currently being finalised.

The nine ex-officio members are: Paul Baxter, Professor David Flint AM, John Hall, Dr Thomas Parry, Andrew Reeves, Alan Tregilgas, Tony Shaw, Dr John Tamblyn and Lew Owens.

Biographies and photographs of individual commissioners, part-time commissioners and ex-officio commissioners can be found in appendix 5.

Social justice

Social justice and equity themes are implicit in both the Trade Practices Act and the Prices Surveillance Act and are strongly reflected throughout this annual report. In the Trade Practices Act the themes are most obvious in the parts dealing directly with fair trading and consumer protection—the basic rights of people in their everyday consumer transactions:

- Part IVA—which prohibits unconscionable conduct in both consumer and business-to-business transactions
- Part V—which is built on a general prohibition of misleading and deceptive conduct, reinforced by a range of specific proscriptions

of such behaviour and includes provisions dealing with product safety, information standards and statutory warranties

- Part VA—which imposes a liability of manufacturers for damages caused by defective goods
- Part VB—which prohibits the exploitation of consumers or excessive profit-taking resulting from the implementation of the New Tax System.

Other documents

The Commission has a very active publications program dealing with the specifics and rationale of its work. Discussed in chapter 7 and appendix 7, this includes a regular journal of developments and issues, and a wide range of booklets, guidelines and discussion papers aimed at promoting better understanding of the legislation for which the Commission is responsible, its work and procedures. Many of these publications and documents are available to the public at the Commission's Internet websites—< <http://www.accc.gov.au> > and < <http://gst.accc.gov.au> > .

External scrutiny

The 2001–02 financial operations of the Commission were audited by the Auditor General. The audit of the financial statements was satisfactory and an unqualified audit report was issued.

The Commission appeared before the following committees:

- the Senate Legislation Committee (Economics)
- the Standing Committee on Economics, Finance and Public Administration (Review of Annual Report)
- a public hearing on the Trade Practices Act before the Senate Legal and Constitutional Standing Committee
- the Environment, Communication, Information Technology and the Arts Legislation Committee.



Freedom of information

The Commission received 35 freedom of information requests during 2001–02. This is a significant increase from 21 applications received in the previous year. The requests were for access to a wide range of documents generally relating to investigations and complaints involving the Commission. There were three requests carried over from 2000–01.

In 16 cases access was granted in part. Access was granted in full in one case and refused in two. Ten cases were not proceeded with and in respect of one the Commission had no relevant documents. Eight requests had not been finalised by the end of the year. It is Commission policy to provide information wherever possible. However, it seeks to protect information provided to it in the course of its investigation and inquiries, and treats that information as confidential both to protect the sources and to ensure the flow of information vital to the Commission's functions.

Two requests to have processing charges waived were granted. One was on the grounds of public interest and the other on financial hardship.

There were five requests for internal review and no applications were made to the AAT for review during 2001–02.

