02

part three

management and accountability

management and accountability

The ACCC aims to have efficient management, including cost-effective use of resources in national and regional offices. This chapter reports on the ACCC's governance and use of resources.

this year the ACCC

received funding of $62.5 million, including $1 million for the litigation reserve fund and $0.7 million additional funding to undertake increased regulatory oversight of Australia Post and to monitor medical indemnity insurance premiums

incurred a net operating loss of $10.2 million, principally due to legal expenses exceeding budget

established an in-house general counsel unit to provide strategic advice

developed an online learning system for staff with workshops and seminars on the law, cases and procedural issues

redeveloped its internet and intranet to comply with government policy concerning accessibility and functionality

financial

	$'000	$'000
	this year	last year
budget	62 560	83 460
fines and costs collected	7 556	6 780
authorisation fees	352	361
total government administered revenue	7 912	7 152
expenditure on consultants	2 850	3 900
expenditure on advertising and market research	229	375
expenditure on staff training	964	1 098

other

commissioners (including chairman)	6	4
associate commissioners	12	14
formal meetings held by commission	62	56
papers considered by commission	460	434
speeches by commissioners	111	144
staff employed	490	540
full-time equivalent staff	468.6	478.2
senior executive staff	17	18
temporary staff	39	39
part-time staff	36	53
staff who received study assistance	64	36
graduates employed	11	26
staff attending investigation skills courses	36	55
staff who used employee assistance program	25	20
staff on international exchange	7	4
staff on secondment to other organisations	6	5
per cent of payroll spent on training	2.8	3.3
publications distributed	809 370	519 169
publications produced	88	111
media releases	317	271
number of consultants engaged	92	91

staff training and development

	this year $	last year $
salaries of staff on development activities	310 559	351 538
salaries of training unit employees	217 696	170 299
courses, conference fees, study assistance	345 004	455 541
travel to events	69 373	107 910
incidentals	20 868	13 442
TOTAL	963 500	1 908 370

types of training and units of training

economic education	231	150
law education	234	153
information technology	64	68
operational skills	247	635
management development	30	44
personal development	23	19
senior executive development	7	5

governance

The Commission comprised the Chairman and five full-time members who were appointed by the Governor General for terms of up to five years. Two new full-time members were appointed during the year—Jennifer McNeill and Ed Willett; Chairman Allan Fels and member Ross Jones resigned.

Jennifer McNeill was appointed in July 2002 for a five year term. Before joining the ACCC, Ms McNeill was a partner in the law firm of Blake Dawson Waldron where her practice focused on litigation, regulatory and risk management advice for both Commonwealth departments and the private sector. Ms McNeill also tutored in litigation and dispute management at the Australian National University.

Edward Willett was appointed in January 2003 for a five-year term. Before being appointed to the ACCC, he was the inaugural executive director of the National Competition Council for seven years. Before that he worked as an Assistant Commissioner with the Industry Commission, helped develop the Commonwealth Department of Industry, Science and Technology's role in business law and regulation, spent three years as deputy head of the Commonwealth Office of Regulation Review, and was involved in other Industry Commission inquiry work and research. He also spent three years with the New Zealand Ministry of External Relations and Trade as an advisor on international economics and trade and eight years as an economist with the Department of Defence. Mr Willett has degrees in law and economics and a post-graduate diploma in international law.

Professor Allan Fels AO resigned his position as chairperson on 30 June 2003 to become the first dean of the Australia and New Zealand School of Government.

Ross Jones resigned on 30 June 2003 to take up an appointment as deputy chair of the Australian Prudential Regulatory Authority.

Graeme Samuel AO was appointed acting chairperson on Professor Fel's departure, and then chairperson for a five year term commencing 1 August 2003.

Before joining the ACCC, Graeme Samuel was president of the National Competition Council for six years. He was executive director of Macquarie Bank from 1981–86. His career as a banker was preceded by 12 years as a partner of leading Melbourne law firm Phillips Fox and Masel. He has held several other offices, including chair of the Melbourne and Olympic Parks Trust, commissioner of the Australian Football League and member of the Docklands Authority. He was a trustee of the Melbourne Cricket Ground Trust, president of the Australian Chamber of Commerce and Industry and chair of the Inner and Eastern Health Care Network. Graeme Samuel was appointed an Officer of the Order of Australia in 1998.

terms of appointment

	ex-officio commissioners	associate commissioners	commissioners	chairman
2003	Dr John Tamblyn 31 December 2003		Sitesh Bhojani 10 November 2003 Ross Jones 14 June 2004, left 30 June 2003	Professor Allan Fels appointed until 30 June 2004, left 30 June 2003
2004	Paul Baxter 30 June 2004 Prof David Edward Flint AM 4 October 2004 Alan Tregilgas 31 March 2004 Andrew Reeves 31 December 2004	Yasmin King 25 October 2004	John Martin 6 June 2004	
2005	Tony Shaw PSM 30 June 2005 Dr Thomas Parry 6 June 2005 Lew Owens 31 December 2005	Don Watt 1 September 2005 Warwick Wilkinson AM 1 September 2005 Teresa Handicott 1 September 2005		
2007			Jennifer McNeill 22 July 2007	
2008			Ed Willett 20 January 2008	Graeme Samuel appointed acting chairman 30 June 2003, appointed chairman 1 August 2003 until 1 August 2008

decision making structure

commission | chairman | commissioners | committees | committees

the commission

The ACCC chairman and full-time commissioners are appointed by the Governor-General for terms of up to five years after a majority of state and territory governments have supported the selection. The commission's decisions are made at a meeting of the commissioners held once a week. The commission is held accountable for its enforcement activities through the courts, tribunals, Parliament and the Commonwealth Ombudsman.

The commission held 62 formal meetings and considered 460 formal papers dealing with matters under investigation, litigation, mergers, access, adjudication, submissions to inquiries, compliance and education strategies and receives recommendations from committees.

chairman

Graeme Samuel
committees: enforcement, telecommunications, mergers, energy, corporate governance

commissioners

Sitesh Bhojani
committees: enforcement, corporate governance

John Martin
committees: enforcement, telecommunications, transport, energy, corporate governance

Jennifer McNeill
committees: enforcement, corporate governance

Ed Willett
committees: enforcement, energy, telecommunications, mergers, transport, corporate governance

committees

The Commission has five subject matter and three function committees to streamline decision making.

telecommunications

chairman and two commissioners, ex-officio associate members, senior staff

meets as required

oversees functions on telecommunications including matters arising under Part XIB and XIC and authorisations; coordinates with enforcement committee

met 21 times, considered 59 reports

mergers

chairman and one commissioner, and senior staff

meets weekly

considers most mergers matters, reports its decisions to the commission, refers major matters to the full commission

met 50 times, considered 192 reports

enforcement

chairman and all commissioners, senior staff

meets weekly

oversees the enforcement program; its recommendations are referred to the full Commission for decision

met 49 times, considered 736 reports

energy

two commissioners, relevant ex-officio associate members, senior staff

meets as required

oversees responsibilities in the gas and electricity sectors

met 12 times, considered 78 reports

transport

two commissioners, senior staff

oversees transport issues

met 20 times, considered 29 reports

corporate governance

chairman, all commissioners, senior staff

meets monthly or as required

considers matters relevant to the good governance of the commission

communications

senior staff

meets monthly

considers communication initiatives, coordinates communication activities, exchanges information about internal and external communications

internal audit

senior staff

meets twice yearly

receives financial reports, monitors exposure to fraud and risk, approves internal audit program

The financial operations of the ACCC were audited by the Commonwealth Auditor General. The **audit** was satisfactory and an unqualified audit report was issued.

The terms and conditions of non SES staff are provided by the **certified agreement** 2002–03, (made under section 170LK of the *Workplace Relations Act 1996*) which was certified on 4 June 2002 and has a nominal expiry date of 30 November 2003. Staff received a 4 per cent salary increase in January 2003 under this agreement. **Performance pay** is not paid to non senior executive staff. Performance pay was paid to 17 senior executive staff in the range band 1 to band 3. The total amount of these payments was $142 481.50. Senior executives are employed under **Australian workplace agreements**. Eight non senior executive staff have workplace agreements. The special salary level scheme (for sustained, exceptional and excellent performance) was awarded to 24 staff. Six staff requests for a review of employment action were received; five were resolved internally and one remains current.

The ACCC participated in the second **HRM benchmarking study** conducted by the Australian National Audit Office and launched a **supervision pilot program** in Melbourne to raise the ability of new managers to supervise workgroups. **A workplace diversity plan** was finalised and presented to the Public Service Commissioner. A revised policy on achieving a **harassment free** workplace was agreed and sent to all employees. Staff completed an annual **conflict of interest** self assessment. Eleven graduates were engaged for the **2003 graduate program**. The annual **senior management conference** was held in Sydney. Sixty-four staff received assistance to engage in further **tertiary studies**.

Influenza vaccinations were made available to all employees, and exercise classes and yoga were provided in some offices on a fee-for-service basis as part of the ACCC's commitment to **occupational health and safety**. Twenty-nine health and safety incidents were reported with one reported to Comcare. Seventy-nine consultations were provided to 25 staff and four family members under the **employee assistance program**.

Seven staff took part in **international staff exchanges**: Vanessa Holliday with the Irish Competition Authority, Ireland; Michelle Coco, United Kingdom Office of Fair Trading; David Snowdon, New Zealand Commerce Commission; John Bardenhagen, Fair Trade Commission, Taiwan; Konrad Chmielewski, Canadian Competition Bureau; Kate Reader, Hong Kong Office of the Telecommunications Authority; and Stuart Gilding, US Federal Trade Commission.

An **environmental awareness** campaign in line with sustainability was implemented: staff follow guidelines on recycling paper, reducing waste, minimising the use of electricity and using public transport where possible. **Purchasing** policy ensures that office equipment purchases are in line with government guidelines. Government **energy efficiency targets** for tenant light and power consumption were met. The **greenpower** component of electricity purchased for the Canberra office has doubled to 10 per cent.

The ACCC received three formal complaints on its **standards of service**. They were dealt with in accordance with the procedures set out in the ACCC's **service charter**. The ACCC has a draft **disability action plan**, which identifies actions in relation to the community.

Nine **offices are maintained**: one in each state and territory capital and Townsville. During the year the ACCC ceased operations in Tamworth. Public contact hours for regional offices were changed and are now 9 am to 5 pm. SecureNet and Synop were contracted to redevelop the ACCC **internet and intranet** sites to comply with government policy, including specifications to improve accessibility for disabled people, meeting all priority one requirements. The five year contract with Telstra Enterprise Services (originally Advantra Pty Ltd) for **information technology and telecommunications services** has one year remaining and the selection process for a new service provider was begun. Major changes to the infrastructure and desktop during the year included migration to Windows XP and Office XP as the **standard desktop environment** on all PCs and notebooks, replacing all file and email servers with high capacity systems and installing **high speed switching technology** in the Canberra and Melbourne offices. Data links to all regional offices were substantially increased to improve network performance. In June 2003 the ACCC set up a **general counsel unit**, comprising general counsel and two deputy general counsels, to advise on strategic litigation. The panel of **legal firms** selected to enforcement litigation on behalf of the ACCC included: Australian Government Solicitor; Corrs Chambers Westgarth; Phillips Fox; Deacons; Slater and Gordon; Norman Waterhouse. The operations of the ACCC were not subject to any decisions or reports of any Parliamentary Committee, or the Auditor General, or the Commonwealth Ombudsman.

Following a review of **library services**, three positions were advertised and filled. The Melbourne office library collection was amalgamated with the national office collection in Canberra. The highlights of the **publishing program** included videos of the competing fairly forums, including a hypothetical hosted by Geoffrey Robertson; brochures and electronic newsletters produced for the International Consumer Protection and Enforcement Network, of which Australia was president; and new country of origin guidelines for several industries, including food and beverage industry, furnishing and complementary health care. Twenty-five statutory and voluntary **public registers** are maintained, including for certification trade marks, section 87B undertakings, authorisations, notifications, mergers and acquisitions, access to services, product safety conferences and telecommunications (competition notices, access undertakings and agreements, tariff information etc).

The ACCC engaged 92 **consultants** during the year with a value of $2.85 million. The main skill categories for which consultants were engaged were information technology, economic expertise and industry expertise. Full details of consultancies are available on the ACCC website www.accc.gov.au. A total of $229 443 was paid in contracts with creative advertising agencies.

advertising and market research

		$
Attorney Generals Department	Gazette advertising	460
Australian Public Service Commission	Gazette subscription	7950
Barossa Riverland Midnorth Consultative Committee	information for small business	154
Better Business Magazine	information for small business	12 000
Brainwaves Information Services	information for regulatory affairs	155
Coffs Harbour Chamber of Commerce and Industry	information for small business	218
Executive Media	information for small business	1995
The Good Guides Group	employment advertising	4000
HMA Blaze Pty Ltd	employment and general advertising	36 001
HH&M Media	information for small business	2964
Horsham Retail Traders	information for small business	198
Independent Pricing and Regulatory Tribunal	information for regulatory affairs	4036
Local Government Focus	information for regulatory affairs	682
The Magazine Publishing Company	information for small business	1365
Made to Measure Publications Pty Ltd	information for small business	2450
Monash University	employment advertising	300
Newsnet.Com	media releases	80 984
Niche Media	information for small business	1600
Professional Publishers Pty Ltd	information for small business	2636
SA Regional Media Pty Ltd	information for small business	403
Seek Communications Ltd	employment advertising	99
Starcom Worldwide	employment and general advertising	68 413
The Warwick Newspaper Pty Ltd	information for small business	180
University of New England	employment advertising	200

total staff

	Australian Capital Territory	New South Wales	Victoria	Queensland	Western Australia	South Australia	Tasmania	Townsville	Northern Territory	total this year	total last year
graduates	4	1	5		1					11	25
female	2	1	2		1					6	14
male	2		3							5	11
class 1	4		1							5	5
female	2		1							3	5
male	2									2	0
class 2	3	3	4	2	2			1		15	25
female	3	3	3	2	2			1		14	22
male			1							1	3
class 3	13	4	3	1	1	1			1	24	29
female	11	4	3	1	1	1			1	22	28
male	2									2	1
class 4	37	3	9	8	2	2	3	1		65	78
female	26	3	5	5	2	1		1		43	52
male	11		4	3		1	3			22	26
class 5	31	13	24	5	6	4	1	1	1	86	80
female	20	4	16	4	5	3	1	1	1	55	43
male	11	9	8	1	1	1				31	37
class 6	40	10	28	7	6	4	3		1	99	105
female	23	7	10	5	3	1			1	50	51
male	17	3	18	2	3	3	3			49	54
executive 1	36	12	29	6	5	3			1	92	88
female	15	6	9	3	1	2				36	38
male	21	6	20	3	4	1			1	56	50
executive 2	37	8	19	1	1	1	1		2	70	83
female	12	2	4	1					1	20	23
male	25	6	15		1	1	1		1	50	60
senior executive 1	7	1	4	1						13	14
female	2	1	1							4	5
male	5		3	1						9	9
senior executive 2	2		1							3	3
female											
male	2		1							3	3
senior executive 3	1									1	1
female											
male	1									1	1
total P S Act staff										484	536
female										253	281
male										231	255
total non P S Act staff	6									6	4
female	1									1	
male	5									5	4
total staff	221	55	127	31	24	15	8	3	6	490	540
female	117	31	54	21	15	8	1	3	4	254	281
male	104	24	73	10	9	7	7		2	236	259

part-time staff

	Australian Capital Territory	New South Wales	Victoria	Queensland	Western Australia	South Australia	Tasmania	Townsville	Northern Territory	total this year	total last year
female	14	7	4	4	1	2				32	46
male	2	1	1							4	7
total this year	16	8	5	4	1	2				36	53
last year	26	13	6	2	3	2			1	53	

temporary staff

	Australian Capital Territory	New South Wales	Victoria	Queensland	Western Australia	South Australia	Tasmania	Townsville	Northern Territory	total this year	total last year
female	16	2		1	2			1		22	37
male	15	1	1							17	23
total this year	31	3	1	1	2			1		39	60
last year	39	5	8	2	3			2	1	60	

senior executive staff

band		Australian Capital Territory	New South Wales	Victoria	Queensland	Western Australia	South Australia	Tasmania	Townsville	Northern Territory	total this year	total last year
1	female	2	1	1							4	5
	male	5		3	1						9	9
2	female											
	male	2		1							3	3
3	female											
	male	1									1	1
total this year		10	1	5	1						17	18
last year		12	1	4	1						18	

equal opportunity target groups

equivalent classification	class 1 and 2 per cent of total	class 3 and 4 per cent of total	class 5 and 6 per cent of total	executive level 1 and 2 per cent of total	senior executives and public office holders per cent of total	total
non English speaking						
this year	2 (0.4)	9 (1.8)	24(4.9)	24(4.9)	3 (0.6)	62
last year	5(0.9)	14(2.6)	25 (4.6)	22(4.1)	4(0.7)	70
people with disabilities						
this year		1(0.2)	2 (0.4)	5 (1.0)		8
last year	2 (0.4)	1 (0.2)	5 (0.9)	5 (0.9)		13
women						
this year	23 (4.7)	65 (13.3)	105 (21.4)	56 (11.4)	5 (1.0)	254
last year	41(7.6)	80 (14.8)	94 (17.4)	61 (11.3)	5 (0.9)	281
Aboriginal and Torres Strait Islanders						
this year	1 (0.2)					1
last year	1 (0.2)		1 (0.2)			2
total staff						
this year	31 (6.3)	89 (18.2)	185 (37.8)	162 (33.1)	23 (4.7)	490
last year	55 (10.2)	107 (19.8)	185 (34.3)	171 (31.7)	22 (4.1)	540

The total number of staff employed includes part-time employees, employees absent on leave and secondments. The numbers cover only those employees who nominate for each group.

‘I would just like to thank the team at the ACCC for the fantastic job you are all doing. There is a huge silent majority of people out here that are really appreciating your work. Since we are all too busy and too small to take on many of the issues it’s great that we finally have an ACCC that is speaking up for all of us and even more importantly backing this up with action and hopefully stiffer penalties in the future. Again thank you for your fantastic work.’

‘I would like to thank the chairman and the ACCC team for the brilliant job you are all doing. I am sure a lot of people are very thankful for the ACCC and the good work you are doing for us Australians. Keep the good work up.’

‘I am happy there is an organisation like the ACCC in Australia that genuinely and honestly protects the little people from big business. I wish to convey my congratulations.’

some of the 69 complimentary messages to the ACCC