

part three

management and accountability



The ACCC aims to have a high standard of governance and efficient management, including cost-effective use of resources in all its offices. This chapter reports on the ACCC's governance, financial, people and information management, and other administrative activities.

this year the ACCC

received total government funding of \$98.4 million, including new funding for the Australian Energy Regulator and funds to strengthen the capacity of the ACCC, including supplementation for the litigation contingency fund

undertook organisational restructures and created additional branches for Finance and Services, Criminal Enforcement and Cartels, Policy and Liaison and the Trade Practices and Litigation Unit

undertook activities to set up the Australian Energy Regulator (which commenced operation on 1 July 2005)

implemented the recommendations of a review of legal services

delivered a planned and structured learning system for all staff—the *Professional development journal*

recruited 19 graduates for its 2005 graduate training program

redeveloped its main business applications, MARS and PRISM, into one complaints and project management system, TRACKIT

the commission

The ACCC comprised the chairman, deputy chair and five full-time members who were appointed by the Governor-General for terms of up to five years after a majority of state and territory governments had supported the selections. Mr Steve Edwell (23 May 2005) and Mr Geoff Swier (30 June 2005) were appointed associate commissioners on an ex officio basis. See appendix 4 for biographies and photographs of commissioners.

the Australian Energy Regulator

Mr Steve Edwell was appointed chairman of the AER on 23 May 2005 for three years, and as a member for five years. Mr Ed Willett was appointed full-time Commonwealth member until 19 January 2008 (this appointment will be served concurrently with his ACCC appointment). Mr Geoff Swier was appointed part-time state/territory member until 29 June 2008. See appendix 5 for biographies and photographs of members.

The AER commenced on 1 July 2005. It is an independent statutory authority and a constituent part of the ACCC. Its staff are employed by the ACCC.

decision making structure

the ACCC's decisions are made at a meeting of the commissioners held once a week and otherwise as necessary
external scrutiny—the commission is accountable for its activities through the courts, tribunals, parliament and the Commonwealth Ombudsman

the commission held 46 formal meetings and considered 381 formal papers dealing with matters under investigation, litigation, mergers, access, adjudication, submissions to inquiries, compliance and education strategies and received recommendations from its committees

subject matter committees

committees

The ACCC has **seven subject matter committees**: telecommunications, mergers, enforcement, litigation, adjudication, energy, and transport and prices oversight; and **six function committees**: corporate governance, communications, internal audit, information and communication technology, people and resources, and occupational health and safety. It also has an employer–employee consultative committee, the workplace relations consultative committee, comprising elected staff representatives, management representative, and representatives of unions.



terms of appointment

	chairman	deputy chair	commissioners	associate commissioners	ex-officio commissioners
2005				Don Watt 1 September 2005 Warwick Wilkinson AM 1 September 2005 Teresa Handicott 1 September 2005	
2006					
2007			Jennifer McNeill 21 July 2007		
2008	Graeme Samuel 31 July 2008	Louise Sylvan 31 July 2008	Ed Willett 19 January 2008		Geoff Swier 29 June 2008
2009			Stephen King 6 June 2009 David Smith 6 June 2009 John Martin 6 June 2009		
2010					Steve Edwell 22 May 2010

financial management

See also pp. 21–3 in the Performance section of this report.

Key improvements in financial management processes and an increased managerial focus on financial management continued in 2004–05. The finance section continues to make improvements in the quality and presentation of the monthly financial data that is made available to the chairman, CEO and executive managers for evaluation and monitoring purposes.

The ACCC has been working with key stakeholders, such as Treasury, the Department of Finance and Administration (Finance) and the Australian National Audit Office (ANAO) on revised government financial reporting frameworks, Accounting Standards, key recommendations of the *Budget estimates and framework review* and the implementation of changes as a result of the Finance Ministers Orders for the preparation of annual financial statements. The ACCC has also adhered to the agreed levels of working capital and accessed appropriation only when payments were due in accordance with the Finance guidelines.

The ACCC received audit clearance of its financial statements from the ANAO on 19 August 2005. The ANAO has again issued an unqualified report with no findings being made regarding its audit of the financial statements. The ACCC is also prepared for the implementation of the Australian Equivalents to International Financial Reporting Standards.

purchasing performance

The Department's purchasing activities are undertaken in accordance with the *Commonwealth procurement guidelines* and *Best practice guidelines*.

The guidelines are applied through the *Chief Executive's Instructions* and supporting guidance documentation. The ACCC continues to review standard requests for tender and contract documentation to ensure that the clauses and requirements reflect government policy requirements.

The ACCC continually improves the efficiency and effectiveness of the procurement to payment processes including contract management. The ACCC aims to balance the benefits of goods and services to be purchased against their costs and risks so that the best value for money is achieved.

The ACCC has strengthened its assurance and reporting processes to comply with government requirements. This includes the publication of its annual procurement plan and all procurements greater than \$10 000 on Austender, listing contracts of \$100 000 or more on the website in accordance with the Senate Order on departmental and agency contracts, and meeting any obligations under Free Trade Agreements.

assets management

In 2004–05 the ACCC implemented a facilities management arrangement for its IT environment. The ACCC now directly owns and manages its IT assets. The ACCC has policies and procedures in place to ensure that all assets are managed effectively and efficiently.

The ACCC's asset replacement strategy ensures adequate budget and planning is in place for replacing assets as they come to the end of their useful life.

The ACCC's non-financial assets were revalued to fair value at 30 June 2005 in accordance with the Finance Minister's Orders.

fraud control

The ACCC complies with the Commonwealth fraud control guidelines and has in place appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes that meet the needs of the agency. A fraud awareness training module has been developed and training has been provided to target staff.

consultants

During 2004–05, 55 new **consultancy contracts** were entered into involving total expenditure of \$1.7 million. Twenty-three ongoing consultancy contracts were active during the 2004–05 year, involving total expenditure of \$0.8 million. Full details of consultancy contracts let with a value of \$10 000 or more are available on the ACCC website.

A total of \$206 750 was paid by the ACCC for **advertising during** the 2004–05 financial year. A listing of payments to organisations in excess of \$1500 appears below.

organisation	description	\$
HMA Blaze	employment and general advertising	138 987
Reed Business Information	general advertising	18 794
Ibis Ridge Pty Ltd	advertising production	16 500
Australian Medical Association	general advertising	11 649
Australian Public Service Commission	gazette subscription	8 125
Thomson Legal & Regulatory	general advertising	2 500
Australian College of Rural and Remote Medicine	general advertising	2 200

people management

The ACCC's budgeted **staff level** for 2004–05 was 484 (460 in 2003–04), including 7 full-time holders of public office (commission members). The total full-time equivalent employees during the year were 457.5 people (up from 449.1 in 2003–04). The difference between the budgeted and actual staff level is as a result of the delay in commencement of the Australian Energy Regulator. The total number of staff employed (including commission members, part-time employees, employees absent on leave and secondments) at 30 June 2005 was 519 (501 on 30 June 2004). There were 94 commencements and 80 cessations during the year. See p. 149 for staffing overview.

Staffing statistics and payroll information is managed in an Aurion database. Enhancements to the database mean that the data can be used for salary budget forecasting and for queries regarding workforce planning. Upgrades were also made in preparation for the new Commonwealth employees' superannuation scheme and the Public Service Superannuation Accumulation Plan.

The ACCC's **learning and development** strategy for the year focused on providing managers and staff with systems for planning and delivering structured professional development. These initiatives included the professional development journal: a diagnostic tool that informs staff development decisions about leadership and management development, and the delivery of management and supervision training to managers and supervisors or potential supervisors; and the advanced investigation/litigation course. Training and development expenditure in 2004–05 totalled \$1 456 462. This comprised salaries of staff on development activities (\$672 468), salaries of the learning and development unit employees (\$282 840), courses and conference fees and study assistance (\$406 996), costs of staff travel for training purposes (\$65 983), and venue hire and various other costs (\$28 175). These costs represent 3.73 per cent of the annual payroll. This is a slight reduction from the corresponding figure for the previous year. However there was a 40 per cent increase in the number of staff days spent attending learning and development activities, compared to the previous financial year.

management and accountability

courses and seminars, number of events for 2003–04 and 2004–05

type	number of events	
	last year	this year
operational skills and knowledge (this incorporates the 'operational skills', 'IT skills' and 'personal development' classifications of previous years.)	843	904
legal skills and knowledge	292	174
applying the Act (this includes the 'investigations skills' course which was reported under 'legal' in previous years)	36	82
economics and regulatory	43	86
leadership supervision and management	45	450

Employees are eligible for **study assistance** in the form of study leave and partial reimbursement of tuition fees for approved courses of study. During the year 55 employees participated in the study assistance scheme, mainly for postgraduate studies in economics, law and business. The ACCC reimbursed \$88 424 for study fees and granted leave with pay to attend lectures and tutorials equivalent to \$131 677.

Of the 12 **graduates** recruited at the beginning of 2004, 11 remained with the ACCC after the program completed and have now gained promotions. The ACCC recruited 19 graduates for its 2005 program. Each will undertake three rotations during the 10-month graduate training program.

International exchanges: Jason Fitts from the Melbourne office undertook a three-month exchange with Wen-Hsiu Lee from the Chinese Taipei Fair Trade Commission. This exchange concluded in October 2004. Ian Nicholas concluded a six-month secondment to the **New Zealand** Commerce Commission in April 2005. In January 2005 the ACCC began a 12-month staff exchange program with the **Canadian** Competition Bureau between Joanne Palisi from the ACCC and Colette Downie from the Bureau.

During the year productivity improvements associated with the ACCC certified agreement 2004–05 were progressively implemented, such as a review of the general classification structure and efficiencies arising from the implementation of the legal services review. Employees received a 4 per cent **salary increase**. Under the ACCC certified agreement, in accordance with the *Public Service Act 1999*, staff can request a review of employment action or decision that affects them. Three applications for review were received and investigated. In each case the original decision was upheld.

The ACCC's formal employee consultative body is the **Workplace Relations Consultative Committee** (WRCC) with six staff representatives (elected by staff), two union representatives and a management representative. The WRCC meets quarterly and is an important forum for the development of the next workplace agreement.

SES employees are employed under **Australian workplace agreements** (AWAs). Four new AWAs were offered to non-SES employees.

Performance pay is not paid to non-senior executive staff. They are eligible instead for the special salary level scheme (criteria for which is in the certified agreement), and during 2004–05 29 staff received additional salary under this scheme. Performance pay was paid to 15 senior executive staff at band 1 and band 2 for a total of \$155 215.

The ACCC has an **occupational health and safety** agreement and policy with representatives elected for all workgroups, as well as first aid officers. Professionally qualified assessors conducted ergonomic assessments for new employees and for those employees requiring review due to injury. Influenza vaccinations were made available to all employees. In May staff were offered the opportunity to participate in a 170-day walking program. One hundred and five staff took up this challenge which will finish in November 2005. Fourteen injury incidents were reported in 2004–05.

The revised **Comcare premium** for 2004–05 was set at 1.17 per cent of total salaries, compared with 1.67 per cent for all agencies combined. The 2005–06 Comcare premium has been set at 1.06 per cent of total salaries, compared with the all agencies combined rate of 1.77 per cent.

The **employee assistance program** was used by 27 staff and 1 family member. It also provided mediation services and assistance to managers.

The ACCC has **equity and diversity** officers throughout the organisation who distribute information and offer support to staff, and the workplace diversity coordinator regularly publishes articles in the ACCC's weekly staff newsletter. The ACCC also has workplace harassment contact officers in each work location.

information and communications

Exceed Systems Integration Pty Ltd were selected to provide information technology services and contracted for three years from 1 July 2004. The key features of these support arrangements are:

- > no clustering with other agencies
- > all IT infrastructure relocated and supported in-house
- > all IT assets now owned by the ACCC
- > technical staff located on-site in Canberra and Melbourne.

The ACCC reviewed and updated its ICT Strategic Plan and ICT Security Policy following the change in its services arrangements. The ACCC's main **business applications**, MARS (complaints recording system) and PRISM (project management system) were redeveloped into one application, TRACKIT. This application enables the ACCC to track matters to ensure timely progression and management. The **internet** has been designed to serve the needs of consumers, small and large business, students, related government and consumer agencies, and international visitors. Its design also addresses the rural communities' need for speed over telephone lines. The **intranet** improves knowledge sharing and capture, and integrates several internal information systems. The self-authoring facility of the web enables ACCC staff to build and maintain information repositories specific to their work.

During the year, changes were made to the ACCC website to reflect new procedures for mergers applications, and changes to adjudication processes. Following the transfer of the product safety function from Treasury during the year, the ACCC acquired responsibility for the recalls.gov.au public and private internet sites in December 2004. It was necessary to redevelop the sites to match ACCC web infrastructure.

A new website was designed for the Australian Energy Regulator and launched on 1 July 2005. It incorporates many of the functions of the National Electricity Code Administrator Ltd's website.

A national file sentencing project was undertaken during the year, and 21 500 files were sentenced; 6780 files were created (as compared with 5276 in 2003–04); 71 252 new records were created in the ACCC's EDMS, TRIM (as compared with 54 040 in 2003–04).

The **library service** focuses on electronic resources and provides research services. Services are available to ACCC staff across Australia from the national office—1026 requests for information were received (377 were followed up with research activity), 3485 items were borrowed from the collection and 367 items were acquired on inter-library loan and 2563 journals were circulated to staff. The collection was bar coded, resulting in 13 000 items bar coded, 610 new items were added to the collection and 360 superseded items deleted from it.

Eighty-five new publications for business, industry and consumers were produced during the year. The highlights of the **publishing program** included a special edition of *Update* to mark the 30th anniversary of the Trade Practices Act passing into law; a media update audio report was introduced as part of the internal *ACCCess* newsletter on the relevant media issues for the week; and a logo and corporate design was developed for the Australian Energy Regulator. For more information, see appendix 3.

Twenty-seven statutory and voluntary **public registers** are maintained, including for s. 87B undertakings, authorisations, notifications, mergers and acquisitions, access to services, product safety conferences and telecommunications (competition notices, access undertakings and agreements, tariff information etc.). See appendix 2 for more information.

legal services

In 2004 the ACCC commissioned a review of the provision and management of its legal services. By June 2005 most of the recommendations of that review had been implemented.

The ACCC's legal service requirements are provided by in-house legal staff and a panel of law firms. In December 2004 the ACCC established a new panel of legal firms to provide legal services. The firms are the Australian Government Solicitor; Corrs Chambers Westgarth; Phillips Fox; and Thompson Playford. While the ACCC's panel of firms had previously been established only to provide enforcement litigation services, the new panel now has to meet litigation in the non-enforcement areas of the ACCC's operations as well, particularly in the regulatory, mergers and adjudication functions. These firms have been appointed to the panel for an initial period of three years.

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.



On **20 July 1995** the Competition Reform Bill 1995 was assented to. It amended the Act to provide, among other things, for the creation of a new regulator, the **Australian Competition and Consumer Commission (ACCC)** on 6 November 1995, following the merger of the Trade Practices Commission and the Prices Surveillance Authority. The *Competition Policy Reform Act 1995* also amended the *Prices Surveillance Act 1983* to formalise the monitoring powers of the ACCC and to bring state and territory owned business under the scrutiny of the ACCC.

The National Competition Council (NCC) was established in **1996** under Part IIA of the Competition Reform Act and the Trade Practices Tribunal was renamed the Australian Competition Tribunal.



other governance activities

During the year the ACCC Consultative Committee, the Health Services Advisory Committee, the Small Business Advisory Group, the Franchising Consultative Panel and Consumer Consultative Committee considered a revised draft of the **service charter**. The draft was also placed on the internet for general public comment and on the intranet for staff comment. Comments from these committees, the public and staff were incorporated into a new version of the service charter which was published and distributed in July 2005. The ACCC received 17 compliments and 2 complaints from the public on its standards of service during the year.

Because public confidence in the integrity of the ACCC and its employees is vital, every employee is asked to undertake an annual **conflict of interest** self-assessment. As a general rule, gifts and hospitality are not accepted when they compromise, or could be perceived to compromise, the integrity of the ACCC or its employees. If accepted they must be declared using an online register.

The ACCC online orientation program, various training events and policy and procedure documents remind employees of their conduct responsibilities set out by the **APS code of conduct**. During the year one formal misconduct investigation was completed; no breach of the code was found.

The **Audit Committee** met four times during 2004–05 to oversee and control internal audit activities, risk management, fraud control, adoption of the International Accounting Standards and the financial statements.

The **Commonwealth disability strategy** is about making sure that Commonwealth departments remove barriers that stop people with disabilities having access to policies, programs and services. Through its disability action plan the ACCC has identified that it has three core business roles of regulator, purchaser and employer and has formulated actions to address its responsibilities regarding people with disabilities in these roles. The ACCC's internet site complies with most priority one requirements of the WWW Consortium web accessibility initiatives.

Nine offices are maintained: one in each state and territory capital, and Townsville. During the year the ACCC renewed leases for its Melbourne and Townsville offices. Public contact hours for regional offices are 9 am to 5 pm.

ecologically sustainable development

The ACCC aims to identify, implement and promote best practice in environmental management, to operate in an ecologically sustainable manner and to provide an environmentally sound workplace that conforms to occupational health and safety requirements.

measures taken to minimise the ACCC's impact on the environment

To reduce the environmental impact of its activities, the ACCC is undertaking the following actions:

- > buy 10 per cent green electricity for the Canberra office
- > procure office equipment with low energy use and power-save modes
- > recycle paper and cardboard products including the pulping of classified waste
- > dispose toner cartridges through a recycling outlet
- > implement duplex printing and photocopying
- > dispose mobile phones and batteries through a recycling outlet
- > service vehicles in accordance with manufacturers' specifications.

The ACCC buys goods and services in accordance with environmental purchasing guides promoted by the Department of Environment and Heritage. This ensures that goods and services are:

- > environmentally sound in manufacture
- > reusable or recyclable
- > designed and made for reliability and long life
- > environmentally best practice in energy efficiency and/or energy consumption.

energy management

The ACCC has reduced its overall energy consumption in line with the Australian Government energy consumption targets. In three of the leased office spaces, there are mechanisms to measure actual electricity use which allows the ACCC to monitor, profile and diagnose energy consumption more effectively.

environmental management system

Although the ACCC has not implemented an environmental management system, it is currently conducting an initial environmental review and preparing a register of environmental actions that could be undertaken to minimise the effect of the ACCC's activities on the environment. The register will identify the:

- > environmental benefit of the action
- > cost or saving of undertaking the action
- > systems or processes that would measure the environmental benefit.

Once completed, the register will help the ACCC target specific actions that will improve its environmental performance.

staffing

equal opportunity target groups as at 30 June 2005

	APS 1-2 per cent of total		APS 3-4 per cent of total		APS 5-6 per cent of total		EL 1-2 per cent of total		SES & POH per cent of total		total
non-English speaking											
this year	2	0.4	9	1.7	20	3.9	28	5.4	3	0.6	62
last year	4	0.8	11	2.2	22	4.4	24	4.8	3	0.6	64
people with disabilities											
this year		0.0	1	0.2	2	0.4	4	0.8		0.0	7
last year		0.0	2	0.4	2	0.4	2	0.4		0.0	6
women											
this year	26	5.0	60	11.6	88	17.0	74	14.3	9	1.7	257
last year	23	4.6	61	12.2	102	20.4	63	12.6	6	1.2	255
Aboriginal and Torres Strait Islanders											
this year	1	0.2		0.0		0.0		0.0		0.0	1
last year	1	0.2		0.0		0.0		0.0		0.0	1
total staff											
this year	38	7.3	86	16.6	175	33.7	187	36.0	33	6.4	519
last year	32	6.4	93	18.6	180	35.9	170	33.9	26	5.2	501

temporary staff as at 30 June 2005

	Canberra	Sydney	Melbourne	Brisbane	Perth	Adelaide	Hobart	Townsville	Darwin	total this year	total last year
female	21	2	2	2	1	1				29	24
male	10	3	10		2	1				26	26
total this year	31	5	12	2	3	2				55	50
total last year	30	4	10	1	4				1	50	

part-time staff as at 30 June 2005

	Canberra	Sydney	Melbourne	Brisbane	Perth	Adelaide	Hobart	Townsville	Darwin	total this year	total last year
female	15	11	6	6		3				41	35
male	5	3	2							10	9
total this year	20	14	8	6		3				51	44
total last year	22	9	8	2		3				44	44

senior executive staff as at 30 June 2005

	Canberra	Sydney	Melbourne	Brisbane	Perth	Adelaide	Hobart	Townsville	Darwin	total this year	total last year
band 1											
female	3		2							5	3
male	9	1	3	1						14	12
band 2											
female	1		1							2	1
male	2		1							3	2
band 3											
female											
male	1									1	1
total this year	16	1	7	1						25	19
total last year	13	1	4	1						19	

total staff as at 30 June 2005

	Canberra	Sydney	Melbourne	Brisbane	Perth	Adelaide	Hobart	Townsville	Darwin	total this year	total last year
graduates total	5	3	7	1	1	1		1		19	12
female	1	1	4	1	1	1		1		10	6
male	4	2	3							9	6
APS1 total	4		1		1	1				7	7
female	3		1		1	1				6	4
male	1									1	3
APS2 total	2	5	2	2				1		12	13
female	2	4	1	2				1		10	13
male		1	1							2	
APS3 total	16	2	4	1	1	2			1	27	23
female	12	2	4	1	1	2			1	23	21
male	4									4	2
APS4 total	40	5	2	5	4		2	1		59	70
female	25	4	1	3	3			1		37	40
male	15	1	1	2	1		2			22	30
APS5 total	28	10	21	3	3	4			1	70	76
female	19	4	12	1	2	2			1	41	48
male	9	6	9	2	1	2				29	28
APS6 total	36	9	34	7	7	7	3		2	105	104
female	18	6	10	4	2	4	1		2	47	54
male	18	3	24	3	5	3	2			58	50
EL1 total	45	16	35	7	5	2		1	1	112	98
female	23	8	12	4	1	1		1		50	39
male	22	8	23	3	4	1			1	62	59
EL2 total	33	8	24	2	1	5	1		1	75	72
female	11	3	8	1		1				24	24
male	22	5	16	1	1	4	1		1	51	48
SESB1 total	12	1	5	1						19	15
female	3		2							5	3
male	9	1	3	1						14	12
SESB2 total	3		2							5	3
female	1		1							2	1
male	2		1							3	2
SESB3 total	1									1	1
female											
male	1									1	1
APS total	225	59	137	29	23	22	6	4	6	511	494
female	118	32	56	17	11	12	1	4	4	255	253
male	107	27	81	12	12	10	5	0	2	256	241
non-APS total	4	1	3							8	7
female	2									2	2
male	2	1	3							6	5
total staff	229	60	140	29	23	22	6	4	6	519	501
female	120	32	56	17	11	12	1	4	4	257	255
male	109	28	84	12	12	10	5	0	2	262	246

The full-time equivalent employment for 2004–05 was 457.5.

The number of actual employees on 30 June 2005 was 519, including 8 non-APS staff and 37 inoperative staff (long-term leave both paid and unpaid or secondment to other organisations).