

Part 6

Appendixes

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Appendix 1: Agency and outcome resource statements

Table A1.1: Agency resource statement, 2013–14

		Actual available appropriations for 2013–14 \$'000	Payments made in 2013–14 \$'000	Balance Remaining \$'000
		(a)	(b)	(a–b)
Ordinary annual services				
Departmental				
Prior year departmental carried forward		9 722	9 722	
Departmental appropriation		181 542	168 630	12 912
Receipts from other sources		1 348	655	693
Total ordinary annual services	A	192 612	179 007	13 605
Other services				
Departmental non-operating				
Prior year non-operating carried forward				
Equity injections		14 310	1 718	12 592
Total other services	B	14 310	1 718	12 592
Special accounts				
Opening balance		54		54
Non-appropriation receipts to special accounts				
Total special account	C	54		54
Total net resourcing and payments for ACCC (A+B+C)		206 976	180 725	26 251

Table A1.2: Budget expenses and resources for Outcome 1 2013–14

Outcome 1: Lawful competition, consumer protection, and regulated national infrastructure markets and services through regulation, including enforcement, education, price monitoring and determining the terms of access to infrastructure services.	Budget expenses 2013–14 \$'000	Actual expenses 2013–14 \$'000	Variation 2013–14 \$'000
	(a)	(b)	(a–b)
Program 1.1: Australian Competition and Consumer Commission			
Departmental expenses			
Departmental appropriation	143 215	143 247	(32)
Revenues from independent sources (section 31)	870	1 161	(291)
Expenses not requiring appropriation in the Budget year	4 500	4 524	(24)
Total for Program 1.1	148 585	148 932	(347)
Program 1.2: Australian Energy Regulator (AER)			
Departmental expenses			
Departmental appropriation	36 302	32 952	3 350
Expenses not requiring appropriation in the Budget year	898	1 218	(320)
Total for Program 1.2	37 200	34 170	3 030
Outcome 1 Total by appropriation type			
Departmental expenses			
Departmental appropriation	179 517	176 199	3 318
Revenues from independent sources (Section 31)	870	1 161	(291)
Expenses not requiring appropriation in the Budget year	5 398	5 742	(344)
Total expenses for Outcome 1	185 785	183 102	2 683

Table A1.3: Average staffing level

	2013–14	2012–13
Averaging staffing level (number)	788	798

Appendix 2: Staffing

Staffing

Table A2.1 and table A2.2 provide details of the ACCC/AER staffing complement in 2013–14.

Table A2.1: APS staff employed by classification and location (at 30 June 2014)

Actual Classification	Adelaide	Brisbane	Canberra	Darwin	Hobart	Melbourne	Perth	Sydney	Townsville	Total
POH	1		4		1	1		2		9
SESB3			2							2
SESB2			5			3		2		10
SESB1		3	11			17	1	3		35
EL2	10	6	42	1		68	2	18		147
EL1	10	8	50	1		78	3	21	1	172
APS6	10	10	48	2	1	57	9	12	1	150
APS5	7	10	47		3	55	1	20		143
APS4	2	4	23	3		19	4	11	1	67
APS3	1	3	12	1		2	1	3		23
APS2			1							1
APS1						1				1
GRAD		1	2			4	1	5		13
Total	41	45	247	8	5	305	22	97	3	773

Table A2.2: APS staff employed by gender and location (at 30 June 2014)

	Adelaide	Brisbane	Canberra	Darwin	Hobart	Melbourne	Perth	Sydney	Townsville	Total
Ongoing										
Female full-time	15	21	102	5		113	10	44	1	311
Male full-time	22	15	99	2	2	146	10	35	1	332
Female part-time	2	9	35	1	2	31	2	11	1	94
Male part-time	1		5			11		3		20
Female casual			1							1
Non-ongoing										
Female full-time			1			1				2
Male full-time								2		2
Male part-time						2				2
Public Office Holder										
Female full-time	1		2					1		4
Male full-time			2		1	1		1		5
Total	41	45	247	8	5	305	22	97	3	773

Appendix 3: Work health and safety

Work health and safety management

The ACCC has continued to enhance HR policies, guidelines and practices to meet the requirements of the *Work Health and Safety Act 2011* (Cth) and the *Work Health and Safety Regulations 2011* (Cth).

In 2013–14, this included the development of new guidelines covering the management of the risks presented by hazardous manual tasks and anaphylaxis.

Workplace inspections were conducted by health and safety representatives twice during the year. The findings of those inspections were used to identify and action health and safety risks.

Health and safety activities

The ACCC continued its efforts to improve health and wellbeing outcomes for its workers during 2013–14. These included:

- activities to mark Mental Health Week and R U OK? Day
- Influenza Vaccination Program: the 2013–14 program was highly successful with over 40 per cent of staff receiving vaccinations
- World Blood Donor Day: a new national initiative for 2013–14 where a number of ACCC offices arranged for staff to donate blood in recognition of the World Blood Donor Day
- Workplace Contact Officer Network: as part of the ACCC's commitment to eradicating bullying and harassment within the workplace, Workplace Contact Officers continue to be represented in each of the ACCC's offices
- Employee Assistance Program: the ACCC continued to provide a free counselling service for employees and their immediate families, through a renowned corporate counselling organisation
- Healthy Lifestyle Reimbursement: the healthy lifestyle reimbursement scheme entered its third year, promoting healthy lifestyle choices among staff. In 2013–14, approximately 80 per cent of employees made a claim up to the limit of just under \$300
- Respect Phase Three: an eLearning module was developed as the next step in the ACCC's efforts to eliminate bullying and harassment in the workplace. The module is available to all staff and forms part of the induction process for new staff
- ACCC & AER Ally Network: now in its second year, the ACCC Ally Network continues to promote a discrimination-free and diverse workplace for staff regardless of their sexual orientation.

Health and safety outcomes

Comcare premiums

The ACCC's Comcare premium for 2013–14 was set at 0.45 per cent of total salaries, compared with the all agencies combined rate of 1.81 per cent.

Compensation claims

Seven new compensation claims were accepted by Comcare from the ACCC during 2013–14. The ACCC had 16 open compensation claims at the end of the 2013–14 financial year.

Non-compensable cases

The ACCC supports employees suffering from physical and psychological injuries or illnesses. The ACCC provided assistance to 14 employees with non-compensable physical and psychological injuries or illnesses during 2013–14.

Incident statistics

Thirty-one incidents were reported to the ACCC in 2013–14.

Investigations, directions and notices

The ACCC received no notices under the *Work Health and Safety Act 2011*, and did not conduct any investigations during 2013–14.

Appendix 4: Advertising and market research

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

The reporting requirement seeks information on payments of more than \$12 400 GST inclusive, that the ACCC made to such agencies in 2013–14. Payments over this threshold are listed in table A4.1 below.

Table A4.1: Advertising and market research of more than \$12 400 2013–14

Date	Description of advertising and market research services	Advertising and market research firm	Amount \$
01/11/2013– 28/05/2014	Advertising Services—Consumer Awareness Campaign	Universal McCann	15 000
16/12/2013– 30/12/2013	Mail Distribution—Product Safety	Avant Card	18 392
07/02/2014– 30/06/2014	Stakeholder Survey—AER	Buchan Consulting	42 267
11/09/2013– 30/10/2013	Consumer Research—Sunglasses	Sweeney Research	16 500
17/04/2014– 30/05/2014	Social Media Research	Strategic Alliance Research	15 000
22/07/2013– 30/11/2013	Consumer Research—Energy Bill Payment	Customer Service Benchmarking Australia	19 775
16/01/2014– 14/04/2014	Safety Awareness Campaign—Quad Bikes	Burning House	33 259

Appendix 5: 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 s. 3A of the *Environment Protection and Biodiversity Conservation Act 1999*, factors in the economic, environmental, social and equitable considerations over both the short and long term.

ACCC activities that affect the environment

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

Measures taken to minimise the effect of activities on the environment

The ACCC is committed to reducing the environmental impact of its activities in a range of areas, including:

Property

- purchasing 10 per cent green electricity for the Canberra head office
- optimising environmental opportunities from refurbishments and new building projects
- replacing halogen lighting with efficient, low energy LED lighting when opportunities arise
- installing programmable office lighting including motion sensors.

Information technology

- retaining main servers on offsite location, reducing energy consumption
- using power-saving modes for ICT equipment when not in use
- using LCD computer screens
- increasing its use of ISO 14001 accredited printers for external printing services

- reducing printer numbers and improving printing efficiency in accordance with government requirements
- using duplex printing and photocopying as a default setting on all printers and multi-function devices.

Travel

- using information and communication technology as an alternative to business travel
- servicing vehicles in accordance with manufacturers' specifications
- using E10 fuels for fleet vehicles where possible.

Workplace efficiencies

- placing emphasis on electronic records and electronic working arrangements, including reviewing lengthy reports and papers on line rather than printing on paper
- promoting access to ACCC publications electronically rather than in print.

Purchasing and procurement

- purchasing 100 per cent recycled content copy paper
- using recycled toner cartridges where possible
- procuring office equipment with low energy consumption and 65 per cent recycled content packaging
- procuring environmentally friendly toilet consumables and cleaning products.

Waste management

- improving its waste segregation practices including paper, co-mingled recycling, general waste, e-waste and in some offices organic waste
- recycling paper and cardboard products, including pulping classified waste and providing use-again office envelopes
- disposing of toner cartridges through a recycling outlet
- disposing of mobile phones and batteries through a recycling outlet.

Information and education

- establishing an environmental inbox for staff to submit ideas and encouraging staff to help identify/contribute to organisational environmental and sustainable initiatives
- providing staff with quarterly environmental reports highlighting targets achieved.
- collaborating regularly with building management to identify initiatives and participate in environmental activities such as Earth Hour.

Mechanisms for reviewing and increasing the effectiveness of measures

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

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

Appendix 6: Competition and Consumer Act 2010 and other legislation

Competition and Consumer Act 2010

Key legislation

Airports Act 1996

Australian Postal Corporation Act 1989

Competition and Consumer Act 2010 (Cth)

National Electricity Law and Rules

National Gas Law and Rules

National Energy Retail Law and Rules

Telecommunications Act 1997 (Cth)

Water Act 2007 (Cth)

Wheat Export Marketing Act 2008 (Cth)

Lawful competition and informed markets

Table A6.1: Parts of the Competition and Consumer Act 2010 dealing with competition

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

Enforcement

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

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

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

In relation to civil cartel prohibitions and other forms of anti-competitive conduct, the ACCC may initiate court action for breaches of the *Competition and Consumer Act 2010*.

To enforce the civil provisions of the *Competition and Consumer Act 2010* relating to anti-competitive conduct, the ACCC can seek:

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

Fair trading and consumer protection

Table A6.2: Parts of the Competition and Consumer Act 2010 (including the Australian Consumer Law) dealing with fair trading and consumer protection

Competition and Consumer Act 2010

IVB	Industry codes of conduct—the franchising, horticulture, oil and unit pricing codes are mandatory codes prescribed under Part IVB
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Australian Consumer Law—Schedule 2 to the *Competition and Consumer Act 2010*

Chapter 2	General protections: misleading or deceptive conduct; unconscionable conduct; unfair contract terms
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Chapter 3	Specific protections: unfair practices: unsolicited supplies; pyramid selling; pricing; consumer guarantees; unsolicited consumer agreements; lay-by agreements; product safety and information
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Chapter 4	Criminal conduct relating to fair trading and consumer protection
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Enforcement

To enforce the civil provisions of the *Competition and Consumer Act 2010* (including the Australian Consumer Law) relating to fair trading and consumer protection, the ACCC can seek:

- declarations of contraventions
- findings of facts
- injunctions
- damages and compensation
- community service orders
- probation orders
- disqualification of a person from managing corporations
- adverse publicity orders
- corrective advertising, public notices and disclosure

- penalties of up to \$1.1 million for companies and \$220 000 for individuals, per contravention.

Infrastructure services and markets where competition is limited

Table A6.3: Parts of the Competition and Consumer Act 2010 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 AER have regulatory responsibilities in relation to a number of key infrastructure services in the economy, including energy, telecommunications, rail, water, fuel, wheat, postal services, ports and airports. As the infrastructure in each of these sectors is generally provided by one or a small number of suppliers, regulation by the ACCC/AER will promote the economically efficient operation, use and investment in Australia's key infrastructure. The effect of competition and investment will therefore enhance community welfare and promote the long-term interest of Australian consumers.

The ACCC/AER regulates access to monopoly infrastructure services and the price for that access. For example, in the communications sector, the ACCC is responsible for the economic regulation of fixed line services and the National Broadband Network (NBN) to promote competition and enable efficient access to essential infrastructure. In addition, the ACCC monitors the price and quality of goods and services, and business compliance with industry specific rules. For example, one of the activities of the ACCC in regulating the rural water industry in the Murray-Darling Basin involves monitoring regulated water charges and enforcing compliance with water market rules and water charge rules made under the *Water Act 2007*.

The National Access Regime under Part IIIA of the *Competition and Consumer Act 2010* (Cth) (CCA) also provides a regime to facilitate third party access to services of certain significant infrastructure facilities. The ACCC has a role to assess access undertakings and to arbitrate access disputes where a service has been 'declared'. For example, the ACCC assesses undertakings provided by vertically integrated operators of rail track infrastructure and bulk wheat export port terminal operators, and monitors compliance with the accepted undertakings.

Part VIIA of the CCA sets out the ACCC's functions in relation to price inquiries, price notifications and price monitoring.

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

Since assuming responsibility for regulation of the retail energy markets in the Australian Capital Territory (on 1 July 2012), Tasmania (on 1 July 2012), South Australia (on 1 February 2013) and New South Wales (on 1 July 2013), the AER acquired further monitoring and

enforcement roles and functions under the National Energy Retail Law and the National Energy Retail Rules. These functions include authorising retailers to sell energy and administering the national retailer of last resort scheme aimed at protecting customers and the market in the event of a retail business failure.

Legislative amendments in 2013–14

Competition and consumer legislation

Amendments to Competition and Consumer Act 2010

Competition and Consumer Amendment Act 2013—commenced in June 2013

Amendments to Competition and Consumer Regulations 2010

Competition and Consumer Amendment Regulation 2013 (No. 2)—registered July 2013

Competition and Consumer Amendment Regulation 2013 (No. 3)—registered in July 2013

Competition and Consumer Amendment Regulation 2013 (No. 4)—registered December 2013

Corporations Laws Amendment (2014 Measures No. 1) Regulation 2014—registered March 2014

Corporations Laws Amendment (2014 Measures No. 2) Regulations 2014—registered June 2014

Telecommunications legislation

Amendments to telecommunications legislation

Telecommunications Legislation Amendment (Consumer Protection) Act 2014—commenced in February 2014

Telecommunications Legislation Amendment (Submarine Cable Protections) Act 2014—commenced in May 2014

Statute Law Revision Act (No. 1) 2014—commenced May 2014

Amendments to telecommunications regulations

Nil

Water legislation

Amendments to water legislation

Water Amendment (Murray-Darling Basin Agreement) Regulation 2014 (No. 1)—registered June 2014

Amendments to water regulations

Water Amendment (Interactions with State Laws and Water Information) Regulation 2013—registered in November 2013

Water Amendment (Murray-Darling Basin Agreement) Regulation 2014 (No. 1)—registered June 2014

Water Amendment (Interactions with State Laws) Regulation 2014 (No. 1)—registered June 2014

Water determinations

Final decision on State Water pricing application 2014–15 to 2016–17

Wheat legislation

Amendments to wheat legislation

Statute Law Revision Act (No. 1) 2014—commenced May 2014

National Electricity Law and National Gas Law

Amendments to National Electricity Law and National Gas Law

Statutes Amendment (National Electricity and Gas Laws—Limited Merits Review) Act 2013—commenced December 2013

New standards commenced

Competition and Consumer Act 2010—Consumer Protection Notice No. 1 of 2013—Safety Standard: Baby Walkers commenced in April 2014

Consumer Goods (Portable Swimming Pools) Safety Standard 2013 commenced in March 2014

Amendments to standards

Amendments to the Competition and Consumer (Tobacco) Information Standard 2011 commenced in July 2013.

New ban orders

A national interim ban on the supply of a range of dangerous synthetic drugs started on 18 June 2013. It was extended twice until 13 October 2013 when amendments to state and territory drug and poisons laws took effect.

Appendix 7: Information required under the Competition and Consumer Act 2010

Section 171(2) reporting requirements

Section 51(1) of the *Competition and Consumer Act 2010* provides that conduct that would normally contravene the law may be permitted if it is specifically authorised under other Australian, state or territory legislation. Section 171(2) of the law requires this report to list all such laws.

Exceptions under Australian, state and territory legislation

Some Australian, state and territory Acts permit conduct that would normally contravene the *Competition and Consumer Act 2010*. Section 51(1) of the *Competition and Consumer Act 2010* provides that such conduct may be permitted if it is specifically authorised under those other Acts. Section 171(2) of the Act requires this report to list all such laws.

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 (ss.173 and 151DA)

Customs Act 1901

Financial Sector (Business Transfer and Group Restructure) Act 1999

Insurance Act 1973

Life Insurance Act 1995

Liquid Fuel Emergency Act 1984

Payment Systems (Regulation) Act 1998

Road Safety Remuneration Act 2012

Stronger Futures in the Northern Territory Act 2012

Telecommunication Act 1997

Australian Capital Territory

Cemeteries and Crematoria Act 2003

Competition Policy Reform Act 1996

Financial Management Act 1996

Government Procurement Act 2001

Health Act 1993

Insurance Authority Act 2005

Racing Act 1999

Road Transport (Public Passenger Services) Act 2001

Territory Records Act 2002

New South Wales

Australian Jockey and Sydney Turf Clubs Merger Act 2010

Casino Control Regulation 2009

Coal Industry Act 2001

Competition Policy Reform (New South Wales) Act 1995

Electricity Generator Assets (Authorised Transactions) Act 2012

Gaming Machines Act 2001

Health Services Act 1997

Hunter Water Act 1991

Industrial Relations (Ethical Clothing Trades) Act 2001

Industrial Relations Act 1996

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

Liquor Act 2007

Major Events Act 2009

National Broadband Network Co-ordinator Act 2010

NSW Self Insurance Corporation Act 2004

Poultry Meat Industry Act 1986

Protection of the Environment Operations Act 1997

Racing Administration Act 1998

Rice Marketing Act 1983

Thoroughbred Racing Act 1996

Totalizator Act 1997

Northern Territory

Competition Policy Reform (Northern Territory) Act 1996

Consumer Affairs and Fair Trading Act 1990

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

Electricity Reform Act 2000

Environmental Protection (Beverage Containers and Plastic Bags) Act 2011

Liquor Act 1978

Water Supply and Sewerage Act 2000

Queensland

Chicken Meat Industry Committee Act 1976

Competition Policy Reform (Queensland) Act 1996

Gladstone Power Station Agreement Act 1993

Sugar Industry Act 1999

Transport Operations (Passenger Transport) Act 1994

South Australia

Authorised Betting Operations Act 2000

Authorised Betting Operations Regulations 2001

Cooper Basin (Ratification) Act 1975

Industries Development Act 1941

Competition Policy Reform Act 1996

Roxby Downs (Indenture Ratification) Act 1982

Tasmania

Competition Policy Reform (Tasmania) Act 1996

Electricity Reform Act 2012

Electricity Supply Industry Act 1995

Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995

Rail Company Act 2009

TOTE Tasmania (Sale) Act 2009

Water and Sewerage Corporation Act 2012

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 (to be replaced by the Legal Profession Uniform Law Application Act 2014)

Liquor Control Reform Act 1998

Outworkers (Improved Protection) Act 2003

Owner Drivers and Forestry Contractors Act 2005

State Owned Enterprises Act 1992

Western Australia

Competition Policy Reform (Western Australia) Act 1996

Electricity Corporations Act 2005

Electricity Industry (Wholesale Electricity Market) Regulations 2004

Electricity Industry Act 2004

Energy Coordination Act 1994

North West Gas Development (Woodside) Agreement Act 1979

Owners-Drivers (Contracts and Disputes) Act 2007

ACCC and AER Annual Report 2013-14

Section 171(3) reporting requirements

Time taken to make final determinations and decisions

Final determinations on access disputes under s. 44V

The ACCC did not issue any final determinations on access disputes in 2013–14.

Decisions on access undertaking applications and access code applications

Rail

ARTC Hunter Valley access undertaking Gap to Turrawan variation—2014

On 28 June 2013, the ACCC received a proposed variation to the Hunter Valley Rail Network access undertaking from the Australian Rail Track Corporation (ARTC). The proposed variation involves an extension of coverage of the undertaking to include the Gap to Turrawan segments of the Hunter Valley Rail Network. ARTC withdrew its proposed variation on 20 February 2014, and submitted a revised application on 24 March 2014. The ACCC sent a letter to industry in April 2014 seeking comments on ARTC's proposal, and accepted the revised application on 25 June 2014.

Wheat export marketing arrangements

Co-operative Bulk Handling—variation to 2011 access undertaking

On 22 March 2013, Co-operative Bulk Handling (CBH) made an application to vary its 2011 access undertaking. The changes related to revisions to CBH's auction procedures and a process to buy back capacity. The clock was stopped on the ACCC's assessment period while the ACCC conducted public consultation on the variation. On 3 July 2013, the ACCC made a draft decision. On 31 July 2013, CBH withdrew its variation application of 22 March 2013 and submitted a revised variation. On 7 August 2013, the ACCC accepted the 31 July application to vary the undertaking.

Emerald Logistics—2013 access undertaking

On 26 March 2013, Emerald Logistics Pty Ltd (Emerald) (formerly Australian Bulk Alliance Pty Ltd (ABA)) lodged with the ACCC a proposed undertaking for its bulk wheat port terminal services at the Port of Melbourne. The proposed undertaking was intended to cover the period from when Emerald's existing undertaking expired (30 September 2013) until 30 September 2014, the expected date of operation of a wheat port mandatory code of conduct. The clock was stopped on the ACCC's assessment period while the ACCC conducted public consultation on the variation. The ACCC released a draft decision on 14 August 2013. Following the draft decision, Emerald withdrew its 26 March undertaking and submitted a revised proposed undertaking, on 9 September 2013. On 25 September 2013, the ACCC accepted the 9 September undertaking.

Emerald Logistics—extension of 2011 access undertaking

On 25 September 2013, Emerald applied to the ACCC for an extension of its 2011 undertaking until the earlier of 30 November 2013 or the commencement of Emerald's 2013 undertaking. On 30 September 2013, the ACCC agreed to the application.

GrainCorp Operations Ltd—variation to 2011 access undertaking re Newcastle

On 12 November 2013, GrainCorp Operations Ltd (GrainCorp) applied to the ACCC to vary its 2011 bulk wheat port access undertaking. The proposed variation proposed a reduction of regulatory obligations for its Newcastle port terminal, by excluding its Newcastle port from most of the obligations of its current undertaking and Port Terminal Services Protocols.

The clock was stopped on the ACCC's assessment period while the ACCC conducted public consultation on the variation. On 10 April 2014, the ACCC issued a draft decision. On 18 June 2014, the ACCC made a final decision to accept the variation to the undertaking.

Viterra—variation and extension of 2011 access undertaking

On 25 July 2013, Viterra Operations Ltd (Viterra) lodged an application to extend and vary its 2011 port terminal services access undertaking. The clock was stopped on the ACCC's assessment period while the ACCC conducted public consultation on the variation. On 21 November, the ACCC issued a draft decision on the application. On 12 December 2013, Viterra withdrew its 25 July application and lodged a revised application to extend and vary its 2011 undertaking. On 30 January 2014, the ACCC agreed to the 12 December application to vary and extend the 2011 undertaking.

Co-operative Bulk Handling—2014 access undertaking

On 14 March 2014 Co-operative Bulk Handling (CBH), lodged a proposed undertaking for its port terminal services with the ACCC. The proposed undertaking is intended to operate from 1 October 2014 until 30 September 2017 or such a time as it is no longer required to have an access undertaking accepted by the ACCC. The major difference in the proposed undertaking compared with CBH's 2011 undertaking is that it seeks to allow three-year long-term agreements (LTAs) for port capacity. The clock was stopped on the ACCC's assessment period while the ACCC conducted public consultation on the variation. On 26 June 2014, the ACCC issued a draft decision proposing to accept the proposed undertaking subject to drafting amendments. At 30 June 2014, the ACCC had not made a final decision on the application.

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

No decisions were made on applications under ss. 44PA(1).

Notices under sections 155 and 155A

During 2013–14 the ACCC issued 290 notices under s. 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 1974* that were repealed on 1 January 2011, the s. 155 notice must be issued under the *Trade Practices Act 1974* 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 s. 155 notice must be issued under the *Competition and Consumer Act 2010*.
- 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 1974* that were repealed on 1 January 2011 and the new Australian Consumer Law, two s. 155 notices are required, with one issued under the *Trade Practices Act 1974*, pursuant to the transitional provision, and one issued under the *Competition and Consumer Act 2010*, 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 2010*.

The ACCC did not issue any notices under s. 155A during 2013–14.

General description of matters for which notices were given

During 2013–14 the ACCC issued 290 notices under s. 155.

The s. 155 notices issued in 2013–14 were as follows:

- 284 notices issued under the *Competition and Consumer Act 2010*
- No notices issued under the *Trade Practices Act 1974*
- six notices issued under both the *Trade Practices Act 1974* and the *Competition and Consumer Act 2010*.

Types of notices issued

- 130 notices under s. 155(1)(a) and (b) (requiring the addressee to furnish information in writing and to produce documents)
- seven notices under s. 155(1)(a) (requiring the addressee to furnish information)
- 21 notices under s. 155(1)(b) (requiring the addressee to produce documents)
- 132 notices under s. 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 *Competition and Consumer Act 2010* and/or *Trade Practices Act 1974*.

Notices issued under s. 155AAA of the Trade Practices Act 1974

Three notices were issued under s. 155AAA of the *Competition and Consumer Act 2010*.

Challenges to the validity of notices

On 20 May 2014 Moses and Paul Obeid filed an application with the Federal Court seeking declarations under s. 163A(1)(aa) of the *Competition and Consumer Act 2010* that notices issued to them pursuant to s. 155(1)(c) of the Act were invalid. The notices require each of Paul and Moses Obeid to attend the ACCC offices, give evidence and produce documents in private examinations. The ACCC considers that the notices are valid and were properly issued, and consequently is opposing the application by Paul and Moses Obeid. At the time of writing, this matter is still before the Court.

Search warrants issued or signed

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

Three search warrants were issued by a magistrate under s. 154X. One search warrant was signed by a magistrate under s. 154Y.

There were no challenges to the validity of search warrants.

Entry to premises

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

Complaints received by the Commission

Details on the number of complaints received by the ACCC in 2013–14, 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 on pages 139 to 144.

Substantiation notices issued

- No notices under s. 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

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

Intervention in proceedings

The ACCC did not intervene in any proceedings in 2013–14.

Appendix 8: Undertakings accepted and infringement notices paid in 2013–14

Undertakings are available in full on the undertakings public register.

Goal 1: Maintain and promote competition and remedy market failure

Competition and Consumer Act 2010 s. 87B undertakings

Competition and Consumer Act 2010

“To promote vigorous lawful competition and informed markets”

Anti-competitive agreements

Coles Group Limited

s. 87B undertaking dated 6 December 2013

The ACCC accepted an undertaking from Coles Group Ltd, Coles Supermarkets Australia Pty Ltd and Eureka Operations Pty Ltd (together Coles) following an ACCC investigation into fuel savings offers made by Coles Supermarkets to customers in 2012 and 2013 in the amount of eight cents per litre and in some cases higher amounts.

Coles has undertaken that it will not make or allow fuel discounts where those discounts are:

- not funded wholly by the fuel subsidiary or division of Coles
 - greater in value than four cents per litre and, contingent on purchases of goods or services at a store or business separate from the retail fuel outlet.
-

Resale price maintenance

Peter McInnes Pty Ltd

s. 87B undertaking dated 15 April 2014

The ACCC has accepted an undertaking from Peter McInnes, an importer and wholesale distributor of kitchenware and homewares.

The ACCC was concerned that Peter McInnes had engaged in conduct that is likely to constitute resale price maintenance, on four occasions, by inducing or attempting to induce retailers not to sell KitchenAid stand mixers at a price less than the recommended retail price specified by Peter McInnes.

Woolworths Limited

s. 87B undertaking dated 6 December 2013

The ACCC accepted an undertaking from Woolworths following an ACCC investigation into fuel savings offers made by Woolworths to customers in 2012 and 2013 in the amount of eight cents per litre and in some cases higher amounts.

Woolworths has undertaken that it will not make or allow fuel discounts where those discounts are:

- not funded wholly by the fuel subsidiary or division of Woolworths, or
- greater in value than four cents per litre and, contingent on purchases of goods or services at a store or business separate from the retail fuel outlet.

Baxter International Inc's proposed acquisition of Gambro AB

s. 87B Undertaking dated 3 September 2013

The ACCC did not oppose Baxter's proposed acquisition of Gambro AB after accepting an undertaking from Baxter International Inc. (Baxter) and its Australian subsidiary Baxter Healthcare Pty Ltd. The undertaking required Baxter to comply with its commitments given to the European Commission to divest Baxter's global continuous renal replacement therapy (CRRT) business. It also required the divestment of the CRRT business to a purchaser approved by the ACCC. The ACCC approved Nikkiso Co. Ltd (Nikkiso) as the purchaser.

Westfield Group and Westfield Retail Trust's proposed acquisition of Karrinyup Shopping Centre

s. 87B Undertaking dated 4 September 2013

The ACCC did not oppose the proposed acquisition of the Karrinyup Shopping Centre by Westfield Management Limited (Westfield) and RE1 Limited and RE2 Limited (together, WRT)) after accepting a court enforceable undertaking to divest the Innaloo Shopping Centre to a purchaser approved by the ACCC. WRT subsequently sold their existing interests in Karrinyup Shopping Centre to an entity associated with Unisuper. On the basis that the proposed acquisition was no longer proceeding, the ACCC consented to the withdrawal of the undertaking on 9 October 2013.

Perpetual Limited's proposed acquisition of the Trust Company

s. 87B undertaking dated 18 September 2013

The ACCC did not oppose Perpetual Limited's proposed acquisition of The Trust Company Limited (The Trust Company) after accepting a court enforceable undertaking from Perpetual to divest The Trust Company's existing ownership of a 13.4 per cent shareholding in Equity Trustees Limited, who are a competitor to Perpetual and The Trust Company in the supply of corporate trust services.

Merger remedy

Thermo Fisher Scientific Inc's proposed acquisition of Life Technologies Corporation

s. 87B undertaking dated 18 December 2013

The ACCC did not oppose the proposed acquisition of Life Technologies Corporation by Thermo Fisher Scientific Inc after competition concerns were resolved by Thermo Fisher's undertaking to comply with its commitments to the European Commission to sell its global HyClone cell culture and Dharmacon gene silencing businesses and its commitment to sell its Australian cell culture business and Australian synthetic small interfering RNA (siRNA) business to an ACCC-approved purchaser or purchasers. It also required Thermo Fisher to appoint a local ACCC-approved independent manager to oversee the divestiture businesses pending completion of the divestiture.

Merger remedy

Gallagher Group's proposed acquisition of Country Electronics Pty Ltd

s. 87b undertaking dated 18 December 2013

The ACCC did not oppose the proposed acquisition by Gallagher Group of Country Electronics Pty Ltd, trading as Thunderbird, after accepting a court enforceable undertaking to divest its 11.86 per cent shareholding in competitor Tru-Test Corporation Limited to an ACCC-approved purchaser or purchasers. The ACCC-approved Tru-Test and another confidential purchaser as the approved purchasers of the shareholding. The merger parties both manufacture electric fencing energisers and animal weigh scales.

Merger remedy

BlueScope Steel Limited's proposed acquisition of OneSteel Sheet and Coil business from Arrium Limited

s. 87B undertaking dated 5 March 2014

The ACCC did not oppose the proposed acquisition by BlueScope Steel Limited (BlueScope) of the OneSteel Sheet and Coil business from Arrium Limited after accepting an undertaking from BlueScope to divest its sheet and coil processing assets in Western Australia to an ACCC-approved purchaser. The ACCC approved Selection Steel as the purchaser of the divestiture assets.

Melbourne International RoRo & Auto Terminal's (MIRRAT) proposed acquisition of a long-term lease to operate the Webb Dock West automotive terminal at the Port of Melbourne

s. 87B undertaking dated 27 March 2014

The ACCC did not oppose the proposed acquisition by Melbourne International RoRo & Auto Terminal (MIRRAT) of a long-term lease to operate the Webb Dock West automotive terminal (WDW Terminal) at the Port of Melbourne, after accepting a court enforceable undertaking from MIRRAT.

The undertaking aims to prevent MIRRAT using its market power as the sole automotive terminal operator at the Port of Melbourne and its vertical interests in shipping (via its ultimate parent company Wallenius Wilhelmsen Logistics AS (WWL)), and potentially in the future in stevedoring, to

- discriminate against rival shipping lines
- discriminate against downstream terminal users, future competitors
- access commercially sensitive information of rival shipping lines and other terminal users that MIRRAT may compete with in future
- implement a vertical price squeeze.

Peregrine Corporation's proposed acquisition of 25 BP Australia petrol retail sites in South Australia.

s. 87b undertaking dated 8 May 2014

The ACCC did not oppose the proposed acquisition by Peregrine Corporation of BP Australia's company owned and operated retail petrol station sites in South Australia, after accepting a court enforceable undertaking to divest four petrol stations in Adelaide to address the ACCC's competition concerns associated with a concentration of Peregrine sites in particular local areas.

Caltex Australia Petroleum Pty Ltd proposed acquisition of the fuel division of Scott's Group

s. 87b undertaking dated 21 May 2014.

The ACCC did not oppose the proposed acquisition by Caltex Australia Limited of the fuel division of the Scotts Group after accepting an undertaking from Caltex to sell three retail sites in Mt Gambier, South Australia and one retail site in Nhill, Victoria to an ACCC-approved purchaser.

Jasmin Solar Pty Ltd and Diamond Energy Pty Ltd

s. 87b undertaking dated 4 September 2013.

The ACCC allowed two notifications lodged by Jasmin Solar to stand after accepting an undertaking given by Jasmin Solar and Diamond Energy.

Jasmin Solar notified of its proposal to supply domestic solar panel systems to customers in South East Queensland for a discounted upfront fee on condition that customers provide their feed-in tariff revenue to Jasmin Solar and use Diamond Energy as their electricity retailer.

The undertaking aims to prevent Jasmin Solar's customers from being charged comparatively excessive fees and charges.

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

Competition and Consumer Act 2010 s. 87B undertakings accepted

Australian Consumer Law

'To encourage fair trading, protection of consumers and product safety'

Door-to-door selling

AGL Energy Limited

s. 87B undertaking dated 28 November 2013

The ACCC has accepted an undertaking from AGL Energy in relation to the court proceedings ACCC v Australian Power & Gas Company Limited (APG) QUD 621 of 2013. The proceedings relate to door-to-door selling practices.

In October 2013, AGL completed its acquisition of APG and therefore APG is wholly owned by AGL.

Separate to the proceedings, AGL offered to the ACCC an undertaking that it would extend its existing trade practices compliance program to include APG.

Consumer guarantees

Apple Pty Limited

s. 87B undertaking dated 17 December 2013

The ACCC has accepted an undertaking from Apple following an investigation into Apple's consumer guarantees policies and practices, and representations about consumers' rights under the ACL.

The ACCC was concerned that Apple had made a number of false or misleading representations to a number of consumers regarding their consumer guarantee rights, including that Apple was not required to provide a refund, replacement or repair to consumers in circumstances where these remedies were required by the consumer guarantees in the ACL.

In the undertaking Apple has publicly acknowledged that, without limiting consumers' rights, Apple will provide its own remedies equivalent to those remedies in the consumer guarantee provisions of the ACL at any time within 24 months of the date of purchase. Apple has also acknowledged that the ACL may provide remedies beyond 24 months for a number of its products.

Credence claims

Barossa Farm Produce Pty Ltd

s. 87B undertaking dated 13 June 2014

The ACCC has accepted an undertaking from Barossa Farm Produce after it acknowledged that representations made on its product labelling, websites, social media, and at a particular cooking class were likely to have contravened the ACL.

Between about 9 December 2010 and 28 May 2013, Barossa Farm Produce made various representations that the pork used in its 'The Black-Pig' smallgoods was from heritage Berkshire pigs, or other heritage black pig breeds and/or free range pigs, when that was not the case.

Credence claims

Basfoods (Aust) Pty Ltd

s. 87B undertaking dated 20 June 2014

The ACCC has accepted an undertaking from Basfoods after it admitted that it misrepresented on labelling and subsequently on its website that its product labelled 'Victoria Honey' was honey produced by honey bees, when in fact it was comprised predominantly of sugars from C-4 plants, which include corn and sugar cane. Basfoods also admitted that by naming and labelling its product 'Victoria Honey' it represented the products as originating from Victoria, Australia, when in fact it was a product of Turkey.

Product safety

Brand Republic Pty Ltd

s. 87B undertaking dated 16 October 2013

The ACCC has acceptable an undertaking from Brand Republic, operator of GAP retail stores, after it sold five different children's nightwear garments that did not comply with the mandatory standard for children's nightwear.

Brand Republic also paid five infringement notices totalling \$51 000 in relation to this conduct.

Product safety

Bunnings Group Ltd

s. 87B undertaking dated 18 September 2013

The ACCC has accepted an undertaking from Bunnings for selling window blinds that failed to comply with the mandatory safety standards. The ACCC found that Bunnings sold Matchstick Blinds that did not carry mandatory safety warnings on the retail packaging, during routine market surveillance.

Misleading advertising

Coles Supermarkets Australia Pty Ltd

s. 87B undertaking dated 7 April 2014

The ACCC has accepted an undertaking from Coles following an investigation into a video and cartoon 'Our Coles Brand Milk Story', which was published on social media.

The ACCC was concerned that Coles was likely to have misled consumers about the impact of its 26 January 2011 retail milk price reduction on the average price paid to dairy farmers supplying milk to processors in 2011-12. The ACCC was also concerned that Coles was likely to have misled consumers about the margins obtained by both Coles and processors on Coles brand milk, and also about the impact of the retail milk price reduction on Australian milk production more generally.

Credence claims

CUB Pty Ltd

s. 87B undertaking dated 29 April 2014

The ACCC has accepted an undertaking from CUB, trading as Carlton & United Breweries, in relation to ACCC concerns that it represented that Byron Bay Pale Lager was brewed by a small brewer in Byron Bay when this was not the case. The beer was in fact brewed by CUB at one of its breweries in Warnervale, some 630 km away by road from Byron Bay.

CUB also paid two infringement notices totalling \$20 400 in relation to this conduct.

Credence claims

Game Farm Pty Ltd

s. 87B undertaking dated 26 November 2013

The ACCC has accepted an undertaking from Game Farm after it acknowledged that it was likely to have contravened the ACL by representing on its packaging and website that its chicken, duck, quail, spatchcock and turkey are 'range reared', when in fact its birds are grown in large commercial sheds with no access to the outdoors.

Game Farm also paid two infringement notices totalling \$20 400 in relation to this conduct.

Door-to-door selling

Lumo Energy Australia Pty Ltd

s. 87B undertaking dated 5 July 2013

The ACCC has accepted an undertaking from Lumo Energy in respect of conduct by its sales agents during unsolicited visits to residential consumers at their homes for the purpose of selling gas and electricity. Lumo Energy admits that by engaging in the conduct it is likely to have contravened the unsolicited selling provisions.

Telecommunications

Medion Australia Pty Ltd

s. 87B undertaking dated 3 March 2014

The ACCC has accepted an enforceable undertaking from Medion in relation to claims about unlimited features in the ALDImobile 'Unlimited Pack' that were likely to mislead consumers. Medion represented on the ALDImobile website that the 'Unlimited Pack' provided customers with 30 days of unlimited voice calls, voicemail, SMS and MMS, when significant usage restrictions applied through the ALDImobile Acceptable Use Policy.

Product safety

New Aim Pty Ltd

s. 87B undertaking dated 20 June 2014

The ACCC has accepted an undertaking from New Aim trading as OzPlaza.Living for supplying a household cot that did not comply with the relevant product safety standard for household cots.

Unsolicited selling

Red Energy Pty Ltd

s. 87B undertaking dated 2 September 2013

The ACCC has accepted an undertaking from Red Energy in relation to misrepresentations made by one of the company's telemarketers. The alleged misrepresentations include that the telemarketer was affiliated with the consumer's current energy retailer and that all energy retailers in NSW must charge consumers the same price when this was not the case. As part of the undertaking Red Energy has admitted that the conduct was misleading.

Unsolicited selling

Tiny Tots Images Photography Pty Ltd

s. 87B undertaking dated 15 April 2014

The ACCC has accepted an undertaking from Tiny Tots in relation to misrepresentations made in regards to a consumers 'cooling off' or termination rights. Tiny Tots entered into approximately 1400 unsolicited consumer agreements for photographic services. These services were primarily provided to Indigenous consumers residing in rural and remote communities via 'pop up shops' at various locations.

Infringement notices paid

Trader	Date paid and amount
Basfoods (Aust) Pty Ltd	18 June 2014 Three notices totalling \$30 600
Brand Republic Pty Ltd	11 October 2013 Five notices totalling \$51 000
Cardcall Pty Ltd	22 April 2014 Two notices totalling \$20 400
Collingwood Football Club	16 August 2013 Two notices totalling \$20 400
CUB Pty Ltd	23 April 2014 Two notices totalling \$20 400
Disbury Holdings Pty Ltd trading as Gotta Getta Group	7 May 2014 and 5 June 2014 Two notices totalling \$20 400
Game Farm Pty Ltd	20 November 2013 Two notices totalling \$ 20 400
New Aim Pty Ltd	17 June 2014 One notice totalling \$10 200
Red Energy	28 August 2013 Four notices totalling \$26 400

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

Water Act 2007 s. 163 undertakings

No undertakings were accepted under s. 163 of the *Water Act 2007*.

Water Act 2007 s. 156 infringement notices

No infringement notices were issued under s. 156 of the *Water Act 2007*.

Australian Energy Regulator

Infringement notices paid

Trader	Date paid and amount
Epic Energy South Australia Pty Ltd	9 January 2014 One notice totalling \$20 000
Lumo Energy Australia Pty Ltd	21 May 2014 One notice totalling \$20 000
Red Energy Pty Limited	21 March 2014 One notice totalling \$20 000

Appendix 9: Litigation matters, review proceedings and tribunal proceedings in 2013–14

ACCC

Goal 1: Promote vigorous lawful competition and informed markets

Litigation concluded in 2013–14

<i>Anti-competitive agreements</i>	Australia and New Zealand Banking Group Ltd
	commenced 25 July 2007
	concluded 18 November 2013
	jurisdiction Federal Court Brisbane
	outcome The ACCC's case was dismissed. The ACCC has appealed the decision.
<i>Breach of s.87B undertaking</i>	Coles Group Ltd
	commenced 25 February 2014
	concluded 14 April 2014
	jurisdiction Federal Court Sydney
	outcome The ACCC's application was dismissed.
<i>Anti-competitive agreements</i>	Flight Centre Ltd
	commenced 9 March 2012
	concluded 28 March 2014
	jurisdiction Federal Court Brisbane
	outcome \$11 million in penalties for attempting to enter into anti-competitive agreements. Flight and the ACCC has lodged a cross-appeal
<i>Cartels</i>	Koyo Australia Pty Ltd
	commenced 15 July 2013
	concluded 18 October 2013
	jurisdiction Federal Court Sydney
	outcome \$2 million in penalties, injunctions and compliance training program for engaging in cartel conduct.
<i>Resale price maintenance</i>	Mitsubishi Electric Australia Pty Ltd
	commenced 19 November 2013
	concluded 19 December 2013
	jurisdiction Federal Court Adelaide
	outcome \$2.2 million in penalties, declarations, injunctions and contribution to ACCC's costs for engaging in resale price maintenance.

<i>Cartels</i>	NSK Australia Pty Ltd	
	commenced	13 December 2013
	concluded	13 May 2014
	jurisdiction	Federal Court Sydney
	outcome	\$3 million in penalties, injunctions and compliance training program for engaging in cartel conduct.

<i>Breach of s.87B undertaking</i>	Woolworths Limited	
	commenced	25 February 2014
	concluded	12 May 2014
	jurisdiction	Federal Court Sydney
	outcome	Declaration that, in the period 1 January 2014 to 9 March 2014, Woolworths breached its undertaking. The Federal Court dismissed the ACCC's other allegation that Woolworths breached its undertaking for conduct after 10 March 2014.

Litigation continuing at the end of 2013–14

<i>Cartels</i>	Air New Zealand Ltd	
	commenced	12 May 2010
	jurisdiction	Federal Court Sydney

<i>Cartels</i>	Australian Egg Corporation Limited & Ors	
	commenced	26 May 2014
	jurisdiction	Federal Court Adelaide

<i>Anti-competitive agreement</i>	Australia and New Zealand Banking Group Ltd (appeal)	
	commenced	9 December 2013
	jurisdiction	Federal Court Brisbane

<i>Anti-competitive agreement</i>	Cement Australia Pty Ltd & Ors	
	commenced	12 September 2008
	jurisdiction	Federal Court Brisbane

<i>Cartels</i>	Colgate-Palmolive Pty Ltd & Ors	
	commenced	12 December 2013
	jurisdiction	Federal Court Sydney

<i>Anti-competitive agreement</i>	Flight Centre Ltd (appeal)	
	commenced	17 April 2014
	jurisdiction	Federal Court Brisbane

<i>Misuse of market power</i>	Pfizer Australia Pty Ltd	
	commenced	13 February 2014
	jurisdiction	Federal Court Sydney

<i>Cartels</i>	Prysmian Cavi e Sistemi
	commenced 23 September 2009
	jurisdiction Federal Court Adelaide continues following settlement with some of the parties
<i>Cartels</i>	P.T. Garuda Indonesia Ltd
	commenced 2 September 2009
	jurisdiction Federal Court Sydney
<i>Cartels</i>	Renegade Gas Pty Ltd, Speed-E-Gas Ltd & Ors
	commenced 23 August 2012
	jurisdiction Federal Court Sydney
<i>Misuse of market power</i>	Visa (Inc) & Ors
	commenced 4 February 2013
	jurisdiction Federal Court Sydney
<i>Cartels</i>	Yazaki Corporation & Australian Arrow Pty Ltd
	commenced 13 December 2012
	jurisdiction Federal Court Melbourne

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

Litigation concluded in 2013–14

<i>Door-to-door selling</i>	AGL Sales Pty Ltd & Ors	
	commenced	26 March 2012
	concluded	13 December 2013
	jurisdiction	Federal Court Melbourne
	outcome	\$60 000 in pecuniary penalties for door-to-door selling practices. Together with the earlier penalty ordered against parties on 1 June 2013, the total pecuniary penalties in this matter total \$1.815 million.
<i>Small business scam</i>	Artorios Ink Pty Ltd & Ors	
	commenced	10 September 2012
	concluded	3 December 2013
	jurisdiction	Federal Court Melbourne
	outcome	\$100 000 in penalties, declarations, undertakings that the two individual respondents would not be directors, or be involved in the management of a corporation for a period of five years and contribution to costs for misleading or deceptive conduct in relation to the supply of ink cartridges to five small businesses.
<i>Door-to-door selling</i>	Australian Power & Gas Company Ltd	
	commenced	9 September 2013
	concluded	28 November 2013
	jurisdiction	Federal Court Brisbane
	outcome	pecuniary penalty totalling \$1.1 million, declarations, corrective advertising and contribution to ACCC costs for its door-to-door selling practices.
<i>Consumer guarantees</i>	Avitalb Pty Ltd (trading as Harvey Norman)	
	commenced	12 June 2013
	concluded	7 March 2014
	jurisdiction	Federal Court Perth
	outcome	\$10 000 pecuniary penalty, declarations and injunctions for false or misleading representations to customers regarding consumer guarantee rights.

Consumer protection

BAJV Pty Ltd t/as Europcar & Anor

commenced		10 November 2011
concluded		8 July 2013
jurisdiction		Federal Court Victoria
outcome		pecuniary penalties totalling \$240 000, declarations, publication order and costs for engaging in unconscionable conduct and making false or misleading representations for deliberately overcharging customers for hire vehicle repair costs and failing to refund overcharged customers. The ACCC appealed the matter to the Full Federal Court in relation to the penalties ordered.

Consumer protection

BAJV Pty Ltd t/as Europcar & Anor (appeal)

commenced		1 August 2013
concluded		2 May 2014
jurisdiction		Federal Court Victoria
outcome		the Full Federal Court allowed the appeal and increased the total pecuniary penalties to \$264 000 for engaging in unconscionable conduct and making false or misleading representations for deliberately overcharging customers for hire vehicle repair costs and failing to refund overcharged customers.

Unfair contract terms

ByteCard Pty Limited (Netspeed Internet Communications)

commenced		22 April 2013
concluded		24 July 2013
jurisdiction		Federal Court Perth
outcome		declarations that a number of clauses in ByteCard Pty Limited's standard form consumer contracts are unfair and therefore void.

Consumer guarantees

Camavit Pty Ltd (trading as Harvey Norman)

commenced		12 June 2013
concluded		13 December 2013
jurisdiction		Federal Court Sydney
outcome		pecuniary penalty \$32 000, declarations, injunctions, in-store corrective notices and implementation of a consumer law compliance program for false or misleading representations to customers regarding consumer guarantee rights.

Contempt

Chaste Corporation Pty Ltd & Ors (Contempt)

commenced		11 November 2011
concluded		25 March 2014
jurisdiction		Federal Court Brisbane
outcome		Mr Foster was found guilty of contempt of court and was sentenced to three years imprisonment, with 18 months to be served and 18 months suspended on condition that Mr Foster has no involvement in any business relating to weight loss, cosmetic or health industry products or services, and does not commit any criminal offence.

Vulnerable and disadvantaged persons **Excite Mobile Pty Ltd & Ors**

commenced		7 December 2011
concluded		29 November 2013
jurisdiction		Federal Court Adelaide
outcome		pecuniary penalties totalling \$658 500, disqualification orders against two directors, injunctions, declarations and costs for false misleading and unconscionable conduct and using undue coercion in relation to the selling and obtaining payment for mobile phone services.

Door-to-door selling

EnergyAustralia Pty Ltd & Ors

commenced		7 March 2013
concluded		4 April 2014
jurisdiction		Federal Court Melbourne
outcome		pecuniary penalties totalling \$1.49 million, declarations corrective advertising, compliance program and costs for door-to-door selling practices.

Consumer guarantees

Gordon Superstore Pty Ltd (t/a Harvey Norman AV/IT Superstore)

commenced		20 November 2012
concluded		13 May 2014
jurisdiction		Federal Court Melbourne
outcome		pecuniary penalty of \$25 000, declarations, injunctions, publication orders and compliance training for false or misleading representations to customers regarding consumer guarantee rights.

Consumer guarantees

Hewlett-Packard Australia Pty Ltd

commenced		16 October 2012
concluded		5 July 2013
jurisdiction		Federal Court Sydney
outcome		\$3 million civil pecuniary penalty, declarations, injunctions, consumer redress, public disclosure orders, corrective advertising, compliance program and costs for making false or misleading representations to customers and retailers regarding consumer guarantee rights.

Consumer guarantees

HP Superstore Pty Ltd (trading as Harvey Norman)

commenced		12 June 2013
outcome		6 December 2013
jurisdiction		Federal Court Melbourne
outcome		pecuniary penalty of \$28 000, declarations, injunctions, in-store corrective notices and compliance program for false or misleading representations to customers regarding consumer guarantee rights.

Credence claims

Luv-a-Duck Pty Ltd

commenced		15 March 2013
concluded		1 November 2013
jurisdiction		Federal Court Melbourne
outcome		pecuniary penalty of \$360 000, declarations, injunctions, corrective notices, compliance program and contribution to ACCC costs for misleading or deceptive conduct, false representations in relation to advertising for its duck meat products.

Consumer guarantees

Launceston Superstore Pty Ltd (trading as Harvey Norman)

commenced		12 June 2013
concluded		6 December 2013
jurisdiction		Federal Court Melbourne
outcome		pecuniary penalty of \$32 000, declarations and injunctions for false or misleading representations to customers regarding consumer guarantee rights.

Consumer guarantees

Mandurvit Pty Ltd (trading as Harvey Norman AV/IT Superstore Mandurah)

commenced		12 June 2013
concluded		12 May 2014
jurisdiction		Federal Court Melbourne
outcome		pecuniary penalty of \$25 000, declarations and injunctions for false or misleading representations to customers regarding consumer guarantee rights.

Consumer guarantees

Moonah Superstore Pty Ltd (trading as Harvey Norman)

commenced		12 June 2013
concluded		6 December 2013
jurisdiction		Federal Court Melbourne
outcome		pecuniary penalty of \$28 000, declarations, injunctions, in-store corrective notices and compliance program for false or misleading representations to customers regarding consumer guarantee rights.

Consumer guarantees

Oxteha Pty Ltd (trading as Harvey Norman)

commenced		12 June 2013
concluded		27 February 2014
jurisdiction		Federal Court Brisbane
outcome		pecuniary penalty \$26 000, injunctions, publication orders, compliance training for false or misleading representations to customers regarding consumer guarantee rights.

Credence claims

P & N Pty Ltd & Ors

commenced		3 May 2013
concluded		17 January 2014
jurisdiction		Federal Court Adelaide
outcome		pecuniary penalties totalling \$145 000, declarations, injunctions, corrective notices and contribution to costs for publishing fake testimonials and misleading or deceptive conduct and making false representations about the place of origin of the solar panels it supplied.

Consumer guarantees

Salecomp Pty Ltd (trading as Harvey Norman)

commenced		12 June 2013
concluded		6 December 2013
jurisdiction		Federal Court Melbourne
outcome		pecuniary penalty of \$28 000, declarations, injunctions, in-store corrective notices and compliance program for false or misleading representations to customers regarding consumer guarantee rights.

Group buying

Scoopon Pty Ltd

commenced		3 July 2013
concluded		17 December 2013
jurisdiction		Federal Court Brisbane
outcome		pecuniary penalty of \$1 million, declarations, injunctions, further develop and enhance its compliance program, community service orders and contribution to ACCC costs for misleading and deceptive conduct and making false and misleading representations to businesses and consumers through its online group buying business.

*Telecommunications***Startel Communication Co Pty Ltd**

commenced		18 July 2013
concluded		8 April 2014
jurisdiction		Federal Court Brisbane
outcome		pecuniary penalty of \$320 000, declarations, injunctions, a community service order and compliance program and contribution to costs for making false or misleading statements regarding consumers' rights under the unsolicited consumer agreements for mobile telecommunication services.

*Misleading advertising***The Jewellery Group (trading as Zamel) (appeal)**

commenced		29 January 2013
concluded		29 November 2013
jurisdiction		Federal Court Adelaide
outcome		Full Court dismissed Zamel's appeal and upheld the earlier decision. The earlier orders of a \$250 000 penalty, declarations, corrective notices, implementation of a compliance program and ACCC costs apply in respect of false or misleading representations by Zamel's use of two price advertising in catalogues and a flyer.

*Telecommunications***TPG Internet Pty Ltd (appeal)**

commenced		19 August 2013
concluded		12 December 2013
jurisdiction		High Court of Australia
outcome		High Court allowed the ACCC's appeal in relation to TPG's advertisements for its Unlimited ADSL2+ broadband internet service. The High Court overturned the Full Court's finding that TPG's advertisements were not misleading and restored the \$2 million penalty imposed by the primary judge.

*Misleading and deceptive conduct***Taxsmart Group Pty Ltd & Ors**

commenced		21 June 2013
concluded		16 May 2014
jurisdiction		Federal Court Melbourne
outcome		declarations, third party redress totalling \$260 400, undertakings to not engage in similar conduct for three years and costs for misleading or deceptive conduct and false representations in relation to job advertisements for graduate accountant positions to attain a tax agent licence and subsequently operate a Taxsmart franchise.

<i>Vulnerable and disadvantaged consumers</i>	Titan Marketing Pty Ltd & Anor
	commenced 14 June 2013
	concluded 11 June 2014
	jurisdiction Federal Court Brisbane
	outcome penalties totalling \$800 000, declarations, injunctions, disqualification order against Mr Okumu, community service order and costs for engaging in unconscionable conduct, making false and misleading representations, breaches of the unsolicited consumer agreement provisions and failing to specify a single price for goods.

<i>Credence claims</i>	Turi Foods Pty Ltd & Ors
	commenced 5 September 2011
	concluded 30 October 2013
	jurisdiction Federal Court Melbourne
	outcome Baiada/Bartter and Australian Chicken Meat Federation were ordered to pay pecuniary penalties totalling \$420 000, declarations and ACCC costs for false, misleading or deceptive conduct in relation to advertising of chicken meat products.

Litigation continuing at the end of 2013–14

<i>Carbon price representations</i>	Actrol Parts Pty Ltd
	commenced 30 April 2014
	jurisdiction Federal Court Adelaide

<i>Indigenous consumer protection</i>	Adata Pty Ltd & Anor
	commenced 19 June 2014
	jurisdiction Federal Court Darwin

<i>Unfair contract terms</i>	Advanced Medical Institute Pty Ltd & Ors
	commenced 21 December 2010
	jurisdiction Federal Court Melbourne

<i>Consumer protection in energy sector</i>	AGL South Australia Pty Ltd
	commenced 4 December 2013
	jurisdiction Federal Court Adelaide

<i>Consumer protection</i>	Breast Check Pty Ltd
	commenced 21 December 2011
	jurisdiction Federal Court Perth

<i>Consumer guarantees</i>	Bunavit Pty Ltd (trading as Harvey Norman AV/IT Superstore Bundall)
	commenced 12 June 2013
	jurisdiction Federal Court Brisbane

<i>Credence claims</i>	Coles Supermarkets Australia Pty Ltd
	commenced 12 June 2013
	jurisdiction Federal Court Melbourne

<i>Highly concentrated sectors</i>	Coles Supermarkets Australia Pty Ltd commenced 5 May 2014 jurisdiction Federal Court Melbourne
<i>Product safety</i>	Dateline Imports Pty Ltd commenced 25 June 2012 jurisdiction Federal Court Brisbane
<i>Credence claims</i>	DuluxGroup (Australia) Pty Ltd commenced 5 December 2012 jurisdiction Federal Court Perth
<i>Consumer guarantees</i>	Fisher & Paykel Customer Services Pty Ltd & Anor commenced 12 November 2013 jurisdiction Federal Court Sydney
<i>Consumer protection</i>	Homeopathy Plus! Australia Pty Ltd & Ors commenced 19 February 2013 jurisdiction Federal Court Sydney
<i>Drip pricing</i>	Jetstar Airways Pty Ltd commenced 19 June 2014 jurisdiction Federal Court Sydney
<i>Vulnerable and disadvantaged consumers</i>	Lux Distributors Pty Ltd (appeal) commenced 1 March 2013 jurisdiction Full Federal Court Melbourne Lux's application for special leave to appeal to the High Court was dismissed with costs. The matter will be remitted to the Federal Court for a hearing on penalties.
<i>Door-to-door selling</i>	Origin Energy Electricity Ltd & Ors commenced 26 September 2013 jurisdiction Federal Court Sydney
<i>Consumer protection in energy sector</i>	Origin Energy Ltd commenced 8 May 2014 jurisdiction Federal Court Adelaide
<i>Credence claims</i>	Pirovic Enterprises Pty Ltd commenced 10 December 2013 jurisdiction Federal Court Sydney
<i>Credence claims</i>	Reebok Australia Pty Ltd commenced 17 December 2013 jurisdiction Federal Court Perth
<i>Consumer protection</i>	Safe Breast Imaging Pty Ltd & Anor commenced 21 December 2011 jurisdiction Federal Court Perth
<i>Small business scam</i>	Safety Compliance Pty Ltd & Ors commenced 16 April 2012 jurisdiction Federal Court Sydney

<i>Scam</i>	Sensaslim Australia Pty Ltd & Ors commenced 15 July 2011 jurisdiction Federal Court Sydney
<i>Credence claims</i>	Snowdale Holdings Pty Ltd commenced 9 December 2013 jurisdiction Federal Court Perth
<i>Online consumer issues</i>	Spreets Pty Ltd commenced 30 June 2014 jurisdiction Federal Court Brisbane
<i>Drip pricing</i>	Virgin Australia Airlines Pty Ltd commenced 19 June 2014 jurisdiction Federal Court Sydney
<i>Telecommunications</i>	Zen Telecom Pty Ltd commenced 28 February 2014 jurisdiction Federal Court Perth

Other proceedings

Application by Murray Goulburn Co-operative Co. Limited for merger authorisation—ACT 4 of 2013

On 29 November 2013 Murray Goulburn Co-operative Co. Limited applied to the Australian Competition Tribunal for merger authorisation to acquire Warrnambool Cheese and Butter Factory Company Holdings Limited.

On 23 January 2014 the applicant withdrew its application.

Concluded in 2013–14

Application by Telstra

In January 2014, Telstra filed an application to the Federal Court of Australia for judicial review under the *Administrative Decisions (Judicial Review) Act 1977*. Telstra disputed the ACCC's jurisdiction to conduct arbitration between parties involved in facilities access disputes and to make an enforceable determination. The Federal Court dismissed Telstra's application in March 2014 and concluded that the ACCC has power to arbitrate relating to these disputes. Telstra subsequently filed a Notice of Appeal in respect of the Federal Court's findings.

On 2 July 2014, the Full Federal Court overturned the initial findings and found that the ACCC could not hear or determine the disputes in question. The ACCC has ceased arbitration of these matters.

Application by Murray Goulburn Co-operative Co. Limited for merger authorisation

On 29 November 2013, Murray Goulburn Co-operative Co. Limited applied to the Australian Competition Tribunal for merger authorisation to acquire Warrnambool Cheese and Butter Factory Company Holdings Limited. On 23 January 2014 the applicant withdrew its application.

Application by AGL Energy Limited for merger authorisation

On 24 March 2014, AGL Energy Limited applied to the Australian Competition Tribunal for merger authorisation to acquire the assets of Macquarie Generation. On 25 June 2014 the Tribunal authorised the proposed acquisition with conditions.

Public warning notices

There were no public warning notices issued in 2013–14.

Disqualification orders

Orders made during 2013–14

Mr Tuan Nguyen (Artorios Ink Co Pty Ltd)

Contravention: Sections 18; 29(1)(d) and (h); 40(1) ACL

Ordered: 3 December 2013, disqualification from managing a corporation for five years.

Mr Thuan Nguyen (Artorios Ink Co Pty Ltd)

Contravention: Sections 18; 29(1)(d) and (h); 40(1) ACL

Ordered: 3 December 2013, disqualification from managing a corporation for five years.

Mr Obie Brown (Excite Mobile Pty Ltd)

Contravention: Sections 51AB; 52; 53(g); 60

Ordered: 29 November 2013, disqualification from managing a corporation for three years.

Mr David Samuel (Excite Mobile Pty Ltd)

Contravention: Sections 51AB; 52; 53(g); 60

Ordered: 29 November 2013, disqualification from managing a corporation for two and a half years.

Mr Paul Giovanni Okumu (Titan Marketing Pty Ltd)

Contravention: Sections 21; 29(1)(a), (g) and (h); 48(1); 74(a), (b) and (c); 76(a)(i) and (ii); 79(b)

Ordered: 11 June 2014, disqualification from managing a corporation for five years.

Orders sought in proceedings continuing at the end of 2013–14

Mr Jacov (Jack) Vaisman (AMI)

Alleged contravention: Section 51AB

One sought (still before the Court)

Ms Joanne Firth (Safe Breast Imaging Pty Ltd)

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

One sought (still before the Court)

Ms Fiona Schimmel (Safety Compliance Pty Ltd)

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

One sought (still before the Court)

Mr Dean King (Safety Compliance Pty Ltd)

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

One sought (still before the Court)

Mr Shane Black (Safety Compliance Pty Ltd)

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

One sought (still before the Court)

Mr Peter Foster (Sensaslim)
Alleged contravention: Sections 18 and 29(1)
One sought (still before the Court)

Mr Adam Adams (Sensaslim)
Alleged contravention: Sections 18 and 29(1)
One sought (still before the Court)

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

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

Mr James Kellaway (Australian Egg Corporation Ltd)
Alleged contravention: Section 44ZZRJ
One sought (still before the Court)

Mr Jeffrey Ironside (Australian Egg Corporation Ltd)
Alleged contravention: Section 44ZZRJ
One sought (still before the Court)

Mr Zelko Lendich (Australian Egg Corporation Ltd)
Alleged contravention: Section 44ZZRJ
One sought (still before the Court)

AER

Litigation concluded in 2013–14

Nil

Australian Competition Tribunal matters

Tribunal decision on AER gas distribution access arrangement for Victoria, July 2013

Tribunal decision on the determination of budgets and forecast charges for the rollout of advanced metering infrastructure in Victoria, August 2013

Tribunal decision on AER gas transmission access arrangement for Victoria, September 2013

Appendix 10: Draft and final decisions in relation to regulated industries in 2013–14

AER

Electricity transmission decisions

- Draft decision: Draft amendment to the electricity transmission Service Target Performance Incentive Scheme (version 4.1), May 2014
- Final decision: Approve TasNetworks' ring-fencing waiver application, May 2014
- Final decision: Electricity transmission determination—Australian Energy Market Operator (AEMO) (Vic)—Regulatory control period 1 July 2014 to 30 June 2019, April 2014
- Final Decision: Approve Heywood interconnector upgrade contingent project, ElectraNet (SA–Vic), March 2014
- Decision: Approve cost pass-through application easement tax change event, SP AusNet, March 2014
- Transitional decision: Electricity transmission transitional determination—Transend (Tas)—Regulatory control period 1 July 2014 to 30 June 2015, March 2014
- Transitional decision: Electricity transmission transitional determination—TransGrid (NSW)—Regulatory control period 1 July 2014 to 30 June 2015, March 2014
- Draft Decision: Approve TasNetworks' ring-fencing waiver application, March 2014
- Final decision: Electricity transmission determination—SP AusNet (Vic)—Regulatory control period 1 April 2014 to 31 March 2017, January 2014
- Decision: Reject application to pass-through costs from service standard event—Powerlink service standard event cost pass through application, December 2013
- Draft Decision: Australian Energy Market Operator (AEMO) (Vic)—Regulatory control period 1 July 2014 to 30 June 2019, December 2013
- Final Decision: Unable to apply version 4 of the electricity transmission service target performance incentive scheme (STPIS) to a transmission business in their current regulatory control period, December 2013.
- Final Decision: 2012–13 Network support pass through decisions for TransGrid and ElectraNet, November 2013
- Decision: Accept that the investment proposal by ElectraNet and the AEMO to upgrade the South Australia to Victoria (Heywood) electricity transmission interconnector satisfies the Regulatory Investment Test for Transmission, September 2013.
- Draft Decision: Application of version 4 of the electricity transmission STPIS to a transmission business in their current regulatory control period, August 2013.

Electricity distribution decisions

- Decision: Approved 2014–15 pricing proposals for Essential Energy, Endeavour Energy and Ausgrid (NSW), June 2014
- Draft Decision: Reject application to pass through costs arising from a material increase in vegetation management—ActewAGL Distribution (ACT), June 2014
- Decision: Approve annual pricing proposals for Ergon Energy and Energex (Qld), ActewAGL (ACT) and Aurora (Tas), June 2014

- Decision: Issue notice under clause 6.9.1(a) of the NER to resubmit 2015–19 regulatory proposal—ActewAGL (ACT), June 2014
- Decision: Approve annual pricing proposals for 2014–15 financial year for Ausgrid, Essential Energy and Endeavour Energy (NSW) and SA Power Networks (SA), June 2014
- Draft Decision: Determination of Victorian F-factor scheme incentive payments for reductions in fire-starts in 2013, June 2014
- Final Decision: Approve cost allocation methods for Essential Energy, Endeavour Energy and Ausgrid, May 2014
- Final Decision: Approve Ergon Energy ring-fencing waiver application, April 2014
- Transitional decision: Electricity distribution transitional determination—ActewAGL (ACT)—Regulatory control period 1 July 2014–30 June 2019, April 2014
- Transitional Decision: Electricity distribution transitional determination—Ausgrid (NSW)—Regulatory control period 1 July 2014–30 June 2019, April 2014
- Transitional Decision: Electricity distribution transitional determination—Endeavour Energy (NSW)—Regulatory control period 1 July 2014–30 June 2019, April 2014
- Transitional Decision: Electricity distribution transitional determination—Essential Energy (NSW)—Regulatory control period 1 July 2014–30 June 2019, April 2014
- Draft Decision: Approve Ergon Energy ring-fencing waiver application, March 2014
- Decision: Approve Ergon Energy solar bonus scheme pass-through application, January 2014
- Final Decision: Proposed charges for advanced metering infrastructure remote services in Victoria for SP AusNet 2014–15, December 2013.
- Decision: Approve Energex solar feed-in tariff cost pass-through, December 2013
- Decision: Approve electricity network tariffs for Victorian distribution network service providers; CitiPower, Powercor, Jemena Electricity Networks, SP AusNet and United Energy, for the period 1 January 2014 to 31 December 2014, December 2013
- Decision: Approve Endeavour Energy’s proposed capital and maintenance charges for a new energy efficient luminaire, November 2013
- Decision: Approve advanced metering infrastructure 2014 charges for Victorian distribution network service providers: United Energy, SP AusNet, Jemena, CitiPower, Powercor, October 2013
- Draft Decision: Proposed charges for advanced metering infrastructure remote services in Victoria for SP AusNet 2014–15, October 2013
- Final Decision: Determination of Victorian F-factor scheme incentive payments for reductions in fire-starts in 2012, September 2013
- Decision: Revised determination SP AusNet’s Victoria distribution determination 2011–15, August 2013
- Decision: Approve vegetation management cost pass-through for SA Power Networks, July 2013
- Decision: Approve 2012 Demand management incentive allowance expenditure for Victorian distribution businesses: CitiPower, Jemena, Powercor, SP AusNet, United Energy, July 2013.

Gas transmission and distribution decisions

- Decision: Accept annual tariff variations for Envestra (Qld), Envestra (SA), Allgas Energy (Qld), Dawson Valley Pipeline (Qld), June 2014
- Decision: Approve 2014–15 tariff variations for NSW, ACT and NT gas businesses: Jemena Gas Networks, ActewAGL Distribution, Central Ranges Pipeline (transmission), Central Ranges Gas Network (distribution), and the Amadeus Gas Pipeline, May 2014

- Final Decision: Approve Roma to Brisbane pipeline 2012–13 carbon price cost pass-through application, May 2014
- Decision: Approve 2014 gas distribution and ancillary reference services tariffs for Multinet, Envestra Albury, Envestra Victoria and SP AusNet, November 2013
- Decision: Remade access arrangement decision for APA GasNet's Victorian Transmission System, November 2013
- Decision: Remade access arrangement decision for Multinet's Victorian gas distribution network, October 2013

Retail energy market decisions

- Decision: Granted Geits ANZ Pty Ltd an individual exemption for the sale of electricity, June 2014
- Decision: Granted Infinity Solar No 131 Pty Ltd an individual exemption for the sale of electricity, June 2014
- Decision: Granted Solar Financial Solutions an individual exemption for the sale of electricity, June 2014
- Decision: Granted Sungevity Australia Pty Ltd an individual exemption for the sale of electricity, June 2014
- Decision: Granted Voltaic Energy Pty Ltd an individual exemption for the sale of electricity, June 2014
- Decision: Granted Zero Cost Solar Pty Ltd an individual exemption for the sale of electricity, June 2014
- Decision: Granted Applied Environment Solutions Pty Ltd an individual exemption for the sale of electricity, June 2014
- Decision: Granted REpower Shoalhaven Incorporated an individual exemption for the sale of electricity, June 2014
- Decision: Granted Solar Professionals Pty Ltd an individual exemption for the sale of electricity, June 2014
- Decision: Granted Suntrix Commercial Pty Ltd an individual exemption for the sale of electricity, June 2014
- Decision: Granted Macquarie Bank Ltd electricity retailer authorisation, April 2014
- Decision: Approved surrender of electricity and gas retailer authorisations—Australian Power and Gas Pty Ltd, March 2014
- Decision: Granted CovaU Pty Ltd electricity and gas retailer authorisations, February 2014
- Decision: Granted Tindo Asset Management Pty Ltd an individual exemption for the sale of electricity, February 2014
- Decision: Granted SEL Absolute Return Fund SA Pty Ltd (Solar Wholesalers) an individual exemption for the sale of electricity, February 2014
- Decision: Granted Australian Clean Energy Finance Fund an individual exemption for the sale of electricity, February 2014
- Decision: Granted The Smarter Group (Smart Commercial Solar) an individual exemption for the sale of electricity, January 2014
- Decision: Granted Demand Manager Pty Ltd an individual exemption for the sale of electricity, January 2014
- Decision: Granted Express Solar Pty Ltd an individual exemption for the sale of electricity, January 2014
- Decision: Granted COzero Pty Ltd an electricity retailer authorisation, December 2013

- Decision: Granted Pooled Energy Pty Ltd an electricity retailer authorisation, December 2013
- Decision: Granted People Energy Pty Ltd an electricity retailer authorisation, October 2013

Telecommunications

- Final Decision to vary the Facilities Access Code, September 2013
- Final Decision on NBN Co's Special Access Undertaking, December 2013
- Final Decision on the Fixed Services Declaration Inquiry, April 2014
- Final Decision on the Domestic Transmission Capacity Service Final Access Determination Inquiry, May 2014
- Final Decision on the Mobile Terminating Access Service Final Access Determination Inquiry, May 2014
- Final Decision on the variation of the Final Access Determinations for the wholesale line rental service, the line sharing service, the unconditional local loop service, and the line sharing service, June 2014.

Transport

Rail

- Position Paper on ARTC's application to extend coverage of its Hunter Valley Rail Network access undertaking to incorporate certain rail infrastructure between the Gap and Turrawan, (Draft) 12 December 2013
- Final Determination on ARTC's annual compliance with the financial model and pricing principles in the Hunter Valley Access Undertaking on 24 March 2014 (Final)
- Final Decision on ARTC's application to extend coverage of its Hunter Valley Rail Network access undertaking to incorporate certain rail infrastructure between the Gap and Turrawan, (Final) 25 June 2014.

Wheat export marketing arrangements

- Draft Decision: CBH Limited's proposed variation to 2011 Port Terminal Services Access Undertaking, 3 July 2013
- Final Decision: CBH Limited's proposed variation to 2011 Port Terminal Services Access Undertaking—Decision to consent to variation, 7 August 2013
- Draft Decision: Emerald Logistics Services Pty Ltd—2013 Port Terminal Services Access Undertaking, 14 August 2013
- Final Decision: Emerald Logistics Pty Ltd—2013 Port Terminal Services Access Undertaking—Decision to accept, 26 September 2013
- Final Decision: Emerald Logistics Pty Ltd—Notice and decision to extend 2011 Port Terminal Services Access Undertaking, 30 September 2013
- Draft Decision: GrainCorp Operations Limited's Application to Vary 2011 Port Terminal Services Access Undertaking, 10 April 2014
- Final decision: GrainCorp Operations Limited's Application to Vary 2011 Port Terminal Services Access Undertaking—Decision to accept, 18 June 2014
- Draft Decision: Viterra Operations Limited's Application to extend and vary 2011 Port Terminal Services Access Undertaking, 21 November 2013

- Final Decision: Viterro Operations Limited's Application to extend and vary 2011 Port Terminal Services Access Undertaking—Final decision to accept, 30 January 2014
- Draft Decision: CBH Limited's proposed 2014–17 Port Terminal Services Access Undertaking—Draft Decision to accept, 25 June 2014.

Airports and aviation

- Final Decision on Airservices Australia price notification—Decision to not object, (Final) 26 June 2014.
- Final Decision on Sydney Airport Corporation Limited price notification for regional air services—Decision to not object, (Final) 14 August 2013.

Postal services

Australia Post

- Final Decision on Australia Post 'ordinary' letter service—price notification—Decision to not object, (Final) 20 February 2014

Water

- 5 March 2014, Draft Decision on State Water Pricing application 2014–15 to 2016–17
- 26 June 2014, Final Decision on State Water Pricing application 2014–15 to 2016–17.

Appendix 11: Major regulatory reports and reviews in 2013–14

AER

Reports

- Transmission service standards compliance reports 2013: Powerlink, Transend, ElectraNet, Directlink, Murraylink and TransGrid, May 2014
- Expert's report on the equity beta for regulated energy networks, May 2014
- Overview of the Better Regulation reform package, April 2014
- Transmission service standards compliance report 2013: SP AusNet, March 2014
- Assessment of Consumer Reference Group: Better Regulation Program, March 2014
- National Energy Retail Law: Small customer billing review report, February 2014
- Annual report on the performance of the retail energy market for 2012–13, revised, February 2014
- Victorian gas distribution businesses—Comparative performance report 2012: Envestra, Multinet and SP AusNet, February 2014
- State of the energy market report, December 2013
- Annual report on the performance of the retail energy market for 2012–13, November 2013
- National Energy Retail Law annual compliance report—2012–13, November 2013
- Stakeholder engagement framework, October 2013
- Service charter, October 2013
- AER Annual Report, September 2013
- Special report on market outcomes in South Australia during April and May 2013, August 2013
- Transmission network service provider performance report, 2010–11, July 2013
- Strategic priorities and work program 2013–14, July 2013
- Retail energy quarterly market performance updates, July 2013, February, March, May 2014
- Better Regulation update newsletters: July, August, September, October, November 2013
- Quarterly Compliance Report: National electricity and gas laws—July, October 2013, May 2014
- Electricity reports, weekly
- Gas reports, weekly

Guidelines and guideline consultation

- Consultation: AER Statement of approach—Regulation of alternative energy sellers—June 2014
- Consultation: Electricity transmission and distribution network service provider information—Annual benchmarking reporting, May 2014
- Guideline: Combined enforcement and compliance statement of approach, April 2014

- Consultation: Pricing methodology guidelines—Modified load expert charge between transmission network service providers—issues paper, April 2014
- Guideline: National Energy Retail Law compliance statement: standing offer prices and proposed carbon tax repeal, April 2014
- Consultation: Better Regulation Program—Rate of return guideline—Return on debt—issues paper, April 2014
- Final Guideline: Better Regulation Program—Rate of return guidelines, December 2013
- Final Guideline: Better Regulation Program—Expenditure Incentives, November 2013
- Final Guideline: Better Regulation Program—Expenditure forecast assessment, November 2013
- Final Guideline: Better Regulation Program—Shared asset, November 2013
- Final Guideline: Better Regulation Program—Confidentiality, November 2013
- Final Guideline: Better Regulation Program—Consumer engagement, November 2013
- Consultation: Regulation of alternative energy sellers—Issues paper, October 2013
- Consultation: Better Regulation Program—Rate of return guideline—Equity Beta—Issues paper, October 2013
- Consultation: Better Regulation Program—Rate of return guideline—Joint stakeholder forum, October 2013
- Consultation: Better Regulation Program—Draft Rate of Return Guideline—public teleconference—Speech and Q&As, September 2013
- Draft Guideline: Better Regulation Program—Rate of return, August 2013
- Revised Guideline: Network service provider registration exemption, August 2013
- Guideline: The Regulatory Investment Test for Distribution, August 2013
- Guideline: Generator Performance Standards information booklet, August 2013
- Draft Guideline: Better Regulation Program—Expenditure forecast assessment, August 2013
- Draft Guideline: Better Regulation Program—Expenditure incentives, August 2013
- Draft Guideline: Better Regulation Program—Confidentiality, August 2013
- Draft Guideline: Better Regulation Program—Shared asset, July 2013
- Guideline: Retail exempt selling, July 2013
- Draft Guideline: Better Regulation Program—Consumer engagement, July 2013
- Revised Guideline: Network service provider registration exemption, August 2013

Telecommunications

Reports

- Changes in the prices paid for telecommunications services in Australia for 2012–13, March 2014
- NBN points of interconnection: Review of policies and procedures relating to the identification of listed points of interconnection to the NBN, December 2013
- Telecommunications competitive safeguards for 2012–13, March 2014
- Telstra's compliance with the retail price control arrangements 2012–13, May 2014
- Telstra's Structural Separation Undertaking—Compliance Report 2012–13, May 2014

Guidelines

- Confidentiality guideline for submitting confidential material to ACCC communications inquiries, April 2014

Fuel

- Monitoring of the Australian petroleum industry—Report of the ACCC into the prices, costs and profits of unleaded petrol in Australia, December 2013

Transport

- Container stevedoring monitoring report no 15, November 2013
- Airport Monitoring Report 2012–13, April 2014

Productivity Commission Review of the National Access Regime

- ACCC submission to Productivity Commission Review of the National Access Regime, July 2013

Productivity Commission Inquiry into Tasmanian Shipping and Freight

- ACCC submission to the Productivity Commission Inquiry into Tasmanian Shipping and Freight, December 2013

Inquiry into coastal shipping

- ACCC submission to the Government's Options Paper: Approaches to regulating coastal shipping in Australia, May 2014

Postal services

- Assessing cross-subsidy in Australia Post 2012–13, 6 June 2014

Water

- Information paper on State Water's 2014–17 pricing application, 5 August 2013.

Appendix 12: Mergers in 2013–14—major assessments

All public merger decisions for 2013–14 were published on the ACCC website at www.accc.gov.au/mergers. Notable examples are listed below.

Merger reviews publicly opposed

- AGL Energy Limited—proposed acquisition of Macquarie Generation assets in NSW
- Healthscope Limited—proposed acquisition of Brunswick Private Hospital
- Peregrine Corporation—proposed acquisition of Caltex Fullarton in Adelaide South Australia
- Sonic Healthcare Limited—proposed acquisition of assets of Delta Imaging Group

Public merger reviews resolved by court enforceable undertakings

- Baxter International Inc—proposed acquisition of Gambro AB
- BlueScope Steel Limited—proposed acquisition of OneSteel Sheet & Coil business from Arrium Limited
- Caltex Australia Limited—proposed acquisition of the fuel division of the Scott's Group of Companies
- Gallagher Group—proposed acquisition of Country Electronics Pty Ltd
- MIRRAT Pty Ltd (a wholly owned subsidiary of Wallenius Wilhelmsen Logistics AS of Norway)—proposed acquisition of automotive terminal at the Port of Melbourne
- Peregrine Corporation—proposed acquisition of 25 BP Australia petrol retail sites in South Australia
- Perpetual Limited—proposed acquisition of The Trust Company Limited
- Thermo Fisher Scientific Inc—proposed acquisition of Life Technologies Corporation
- Westfield Group and Westfield Retail Trust—proposed acquisition of Karrinyup Shopping Centre

Merger reviews not opposed

- AGL Energy Limited—proposed acquisition of Australian Power and Gas Company Limited
- Air New Zealand Limited—proposed acquisition of an additional 6 per cent of Virgin Australia Holdings Pty Ltd
- Amcor Ltd—proposed acquisition of Detmold Flexibles Pty Ltd and Detmark Pty Ltd
- Bega Cheese Limited—proposed acquisition of Warrnambool Cheese and Butter Factory Company Holdings Limited
- BlueScope Steel Ltd proposed to acquire Orrcon Steel from Hills Holding Limited
- BlueScope Steel Ltd—proposed acquisition of Fielders Australia Pty Ltd
- ERM Power Limited—proposed acquisition of Macquarie Generation assets in NSW
- Insurance Australia Group Ltd—proposed acquisition of Wesfarmers' insurance underwriting business

- iSentia Pty Limited—proposed acquisition of Australian Associated Press Pty Limited's media monitoring business
- NBN Co's—proposed acquisition of TransACT's fibre to the premises network
- The Transurban Consortium proposed acquisition of the assets of the Queensland Motorways Group
- Westpac Banking Corporation—proposed acquisition of the assets of Lloyds International Pty Ltd which included Capital Finance Australia Limited (CFAL) and BOS International (Australia) Limited (BOSI)
- Woolworths Limited—proposed acquisition of Supa IGA supermarket and packaged liquor operations in St Kilda VIC
- Woolworths Limited—proposed acquisitions of Supa IGA at Riverside Gardens, Supa IGA at Banksia Beach, Supa IGA at Rasmussen
- Woolworths Ltd—proposed acquisition of Supermarket in Hawker ACT.

Appendix 13: Significant authorisation and notification decisions in 2013–14

Authorisations

In 2013–14 the ACCC issued 37 final authorisation decisions. Copies of all authorisation decisions for 2013–14 were published on the ACCC website at www.accc.gov.au/publicregister. Notable examples are listed below.

Notable authorisations granted

- Australasian Performing Right Association Ltd—Revocation & Substitution—A91367—A91375
- Clean Energy Council Limited—Authorisations—A91365 and A91366
- CS Energy Limited & Ors—Authorisation—A91378
- Seedvise Pty Ltd—Authorisation—A91406
- Virgin Australia & Air New Zealand—Authorisations—A91362 and A91363
- Visa & MasterCard—Authorisations—A91379 and A91380

Authorisation denied

- Australian Society of Ophthalmologists Incorporated—Authorisation—A91360

Collective bargaining notifications

In addition to seeking authorisation for collective bargaining arrangements, parties are able to lodge a collective bargaining notification. In 2013–14, two matters involving three collective bargaining notifications were lodged. One matter was withdrawn and one was under assessment as at 30 June 2014. Copies of all collective bargaining notifications and ACCC decisions are available from the ACCC's website at www.accc.gov.au/publicregister.

Exclusive dealing notifications

In 2013–14, the ACCC assessed more than 720 exclusive dealing notifications involving 503 separate matters. Copies of all notifications are available from the ACCC's website at www.accc.gov.au/publicregister. Notable examples are listed below.

Notable notifications allowed to stand

- Jasmin Solar Pty Ltd—Notification—N96232
- Jasmin Solar Pty Ltd—Notification—N96653
- Port Hedland Port Authority—Notification—N96171
- Qube Logistics (Aust) Pty Limited—Notification—N96205

Notifications subject to review by the Tribunal

Nil

Appendix 14: Correction of material errors in previous annual reports

Nil.

Glossary and abbreviations

AAT	Administrative Appeals Tribunal
ABA	Australian Bulk Alliance
ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
ACMA	Australian Communications and Media Authority
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
AGS	Australian Government Solicitor
APS	Australian Public Service
ARFF	aviation rescue, fire fighting
ARTC	Australian Rail Track Corporation
ASIC	Australian Securities and Investments Commission
AUSTRAC	Australian Transaction Reports and Analysis Centre
AWG	Australian Writers' Guild Limited
BBM	building block model
CA	Communications Alliance
CCA	<i>Competition and Consumer Act 2010</i>
CCEU	Competition and Consumer Economic Unit
CCG	Customer Consultative Group
CEO	chief executive officer
COAG	Council of Australian Governments
cpl	cents per litre
CPM	carbon price mechanism
DBCDE	Department of Broadband, Communications and the Digital Economy
DEHP	diethylhexyl phthalate
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
FADs	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	International 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	Organisation for Economic Co-operation and Development
OSP	Operational Separation Plan
PBS	portfolio budget statements
PPD	paraphenylene diamine
POH	Public Office Holder
PSCC	Product Safety Consultative Committee
PSM	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 s. 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	sShort 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.

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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
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